

A NONSUBSTANTIVE REVISION  
OF STATUTES RELATING TO  
THE LICENSURE OF INSURERS AND RELATED ENTITIES,  
LIFE INSURANCE, AND CERTAIN GROUP BENEFIT PROGRAMS  
FOR GOVERNMENTAL EMPLOYEES

Submitted to the 77th Legislature  
as part of the  
Texas Legislative Council's  
Statutory Revision Program

Austin, Texas  
2001

by an "insurer or health maintenance organization." The revised law omits the references to a health maintenance organization because as Article 3.51-10 applies to coverage under a health maintenance organization contract, the article is not revised in this chapter.

[Chapters 1133-1150 reserved for expansion]

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CHAPTER 1151. INDUSTRIAL LIFE INSURANCE

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1151.001. DEFINITION. In this chapter, "industrial life insurance" means life insurance under which the premiums are payable:

- (1) weekly; or
- (2) less often than weekly but at least monthly, if the face amount of insurance coverage provided by the policy is \$1,000 or less. (V.T.I.C. Art. 3.52, Sec. 1 (part).)

Source Law

Art. 3.52

Sec. 1. For the purposes of this article, industrial life insurance shall mean that form of life insurance either

- (a) under which the premiums are payable weekly, or
- (b) under which the premiums are payable monthly or oftener, but less often than weekly, if the face amount of insurance provided in the policy is not more than One Thousand (\$1,000.00) Dollars; provided that  
. . . . .

Revised Law

Sec. 1151.002. GENERAL APPLICABILITY OF CHAPTER. (a) Except as provided by other law, this chapter controls the form and content of an industrial life insurance policy delivered or issued for delivery in this state by an insurance company.

(b) This chapter does not control an industrial life insurance policy delivered or issued for delivery in this state by an association described by Section 1151.004. (V.T.I.C. Art. 3.52, Sec. 7 (part).)

Source Law

Sec. 7. . . . this article and no other

shall apply to and govern the form and content of industrial life insurance policies as they are defined herein, issued by all other insurance companies.

Revisor's Note

(1) Section 7, V.T.I.C. Article 3.52, is derived from, and substantively identical to, Chapter 89, Acts of the 47th Legislature, Regular Session, 1941, and provides that Article 3.52 "and no other" applies to and governs the form and content of industrial life insurance policies. It is a well-accepted principle of constitutional law that a legislature may not, through statutory law, limit the authority of a future legislature, and laws enacted after 1941 have repealed this limitation in part. For example, Chapter 501, Acts of the 55th Legislature, Regular Session, 1957, amended V.T.I.C. Article 3.42 to expressly apply to industrial life insurance policies. The revised law is drafted accordingly.

(2) Section 7, V.T.I.C. Article 3.52, provides that only V.T.I.C. Article 3.52 "shall apply to and govern" the form and content of certain industrial life insurance policies. The reference to "apply" is omitted from the revised law as unnecessary because, in context, "apply" is included within the meaning of "govern." The revised law substitutes "control" for "govern" because, in context, the terms are synonymous and "control" is more commonly used.

(3) The phrase "delivered or issued for delivery in this state" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the phrase throughout this chapter. Sections 2 through 6, V.T.I.C. Article 3.52, limit the application of this chapter to an industrial life insurance policy "delivered or issued for delivery in this state."

Revised Law

Sec. 1151.003. APPLICABILITY OF CHAPTER TO POLICY PROVIDING ACCIDENT AND HEALTH BENEFITS. Except as otherwise provided by this chapter, if an industrial life insurance policy provides accident and health benefits in addition to natural death

benefits, this chapter applies only to the life insurance benefits provided by that policy. (V.T.I.C. Art. 3.52, Sec. 1 (part).)

Source Law

Sec. 1. . . .

. . . .

(b) . . . When an industrial life insurance policy is issued providing for accident and health benefits, in addition to natural death benefits, the provisions of this article shall apply only to the life insurance benefits provided in the policy, except as hereinafter otherwise specifically provided.

Revised Law

Sec. 1151.004. CERTAIN ASSOCIATIONS EXCEPTED. This chapter does not apply to any of the following associations operating under Chapter 886:

- (1) a local mutual aid association;
- (2) a statewide mutual life, health, and accident association; or
- (3) a burial association. (V.T.I.C. Art. 3.52, Sec. 7 (part).)

Source Law

Sec. 7. This article shall not apply to local mutual aid associations or state-wide mutual life, health, and accident companies and burial associations operating under Chapter 14 of this code, but . . . .

Revisor's Note

Section 7, V.T.I.C. Article 3.52, refers to "state-wide mutual life, health, and accident companies." The revised law substitutes "associations" for "companies" because that is the correct terminology for those entities under V.T.I.C. Chapter 14, revised in pertinent part as Chapter 887 of this code.

Revised Law

Sec. 1151.005. CERTAIN NONPROFIT ORGANIZATIONS EXCEPTED. This chapter does not apply to:

- (1) an order, society, association, or labor organization that:
  - (A) admits to membership only persons engaged in

one or more crafts or hazardous occupations in the same or similar lines of business; and

(B) does not operate for profit;

(2) a ladies auxiliary to an order, society, association, or labor organization described by Subdivision (1); or

(3) a fraternal order, association, or society.

(V.T.I.C. Art. 3.52, Sec. 8.)

#### Source Law

Sec. 8. Nothing contained in this article shall be so construed as to affect or apply to orders, societies, associations, or labor organizations which admit to membership only persons engaged in one or more crafts or hazardous occupations in the same or similar lines of business, and who do not operate for profit; nor shall this article apply to the ladies societies or ladies auxiliaries to such orders, societies, associations, or labor organizations, nor to fraternal orders, associations, and societies.

#### Revisor's Note

(1) Section 8, V.T.I.C. Article 3.52, states that V.T.I.C. Article 3.52 does not "affect or apply to" certain organizations. The reference to "affect" is omitted from the revised law as unnecessary because, in context, "affect" is included within the meaning of "apply to."

(2) Section 8, V.T.I.C. Article 3.52, refers to "ladies societies or ladies auxiliaries." The reference to "ladies societies" is omitted from the revised law as unnecessary because, in context, "ladies societies" is included within the meaning of "ladies auxiliaries."

[Sections 1151.006-1151.050 reserved for expansion]

#### SUBCHAPTER B. REQUIRED POLICY PROVISIONS

#### Revised Law

Sec. 1151.051. POLICY TITLE. An industrial life insurance policy must contain a title on the face of the policy that:

(1) briefly describes the form of the policy; and

(2) includes the printed words "Industrial Policy."

(V.T.I.C. Art. 3.52, Secs. 1 (part), 2 (part).)

Source Law

Sec. 1. . . .

. . . .

(b) . . . in either case the words "Industrial Policy" are printed on the face of the policy as part of the descriptive matter thereof. . . .

Sec. 2. No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:

. . . .

(j) A title on the face of the policy briefly describing its form. . . .

Revised Law

Sec. 1151.052. ENTIRE CONTRACT. (a) An industrial life insurance policy must provide that the policy is the entire contract between the parties, except that at the option of the insurer, the insurer may make the policy and the policy application the entire contract between the parties.

(b) To make the policy application a part of the contract, a copy of the application must be endorsed on or attached to the policy at the time the policy is issued. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . . .

(b) A provision that the policy shall constitute the entire contract between the parties, but if the insurer desires to make the application a part of the contract it may do so, provided a copy of such application shall be endorsed upon or attached to the policy when issued, and in such case the policy shall contain a provision that the policy and the application therefor shall constitute the entire contract between the parties. . . .



Revised Law

Sec. 1151.053. AGENT UNAUTHORIZED TO WAIVE OR CHANGE TERMS.  
An industrial life insurance policy must provide that an agent may not waive or change the terms of an application or policy.  
(V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

(1) A provision that no agent shall have the power or authority to waive, change, or alter any of the terms or conditions of any application or any policy delivered or issued for delivery pursuant to the terms of this Article. . . .

Revisor's Note

(1) Section 2, V.T.I.C. Article 3.52, refers to the authority to "waive, change, or alter" the terms or conditions of a policy or an application for a policy. The reference to "alter" is omitted from the revised law as unnecessary because "alter" is included within the meaning of "change."

(2) Section 2, V.T.I.C. Article 3.52, refers to the authority to waive or alter the "terms or conditions" of a policy or an application for a policy. The reference to "conditions" is omitted from the revised law as unnecessary because "conditions" is included within the meaning of "terms."

Revised Law

Sec. 1151.054. STATEMENT MADE BY OR ON BEHALF OF INSURED.  
An industrial life insurance policy must provide that, in the absence of fraud, a statement made by the insured or on behalf of the insured is considered a representation and not a warranty.  
(V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . . .

(b) . . . The policy shall also contain a provision that all statements made by the insured or on his behalf shall in the absence of fraud be deemed representations and not warranties. . . .

Revised Law

Sec. 1151.055. INCONTESTABILITY OF POLICY. An industrial life insurance policy must provide that, after the policy has been in force for two years from its date of issue during the lifetime of the insured, the policy is incontestable except:

- (1) for nonpayment of a premium;
- (2) for violation of any policy condition relating to naval or military service in time of war; and
- (3) concerning a provision relating to:
  - (A) benefits in case of total or permanent disability as defined by the policy; or
  - (B) additional insurance:
    - (i) specifically against accidental death;

or

(ii) against loss of, or loss of use of, specific parts of the body. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . . .

(c) A provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for two (2) years from its date, except for non-payment of premiums, and except for violation of the conditions of the policy, if any, relating to naval or military service in time of war, and except as to provisions and conditions granting or relating to benefits in the event of total or permanent disability as defined in the policy, and those granting or relating to additional insurance specifically against death by accident or by accidental means, or to additional insurance against loss of, or loss of use of, specific members of the body. . . .

Revisor's Note

(1) Section 2, V.T.I.C. Article 3.52, refers to certain "provisions and conditions." The reference to "conditions" is omitted from the revised law as unnecessary because, in context, "conditions" is included within the meaning of "provisions."

(2) Section 2, V.T.I.C. Article 3.52, refers to a provision "granting or relating to" certain benefits or additional insurance. The reference to "granting" is omitted from the revised law as unnecessary because, in context, "granting" is included within the meaning of "relating to."

(3) Section 2, V.T.I.C. Article 3.52, refers to insurance specifically against "death by accident or by accidental means." The revised law substitutes "accidental death" for the quoted language because the term "accidental death" more concisely describes "death by accident or by accidental means."

Revised Law

Sec. 1151.056. ADJUSTMENT OF AMOUNT PAYABLE IF AGE OF INSURED IS MISSTATED. An industrial life insurance policy must provide that, if the age of the insured is misstated, the amount payable under the policy is the amount of insurance that the premium paid would have purchased if the insured's age had been stated correctly. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

(d) A provision that if the age of the insured has been misstated, the amount payable under the policy shall be such as the premium would have purchased at the correct age. . . .

Revised Law

Sec. 1151.057. GRACE PERIOD. (a) An industrial life insurance policy must provide that the insured is entitled to a grace period stated in the policy within which any premium after

the first premium may be paid. The grace period must be at least a four-week period.

(b) During the grace period the policy continues in effect, but if an event under which the insurer may be liable under the policy occurs during the grace period and before the overdue premiums are paid, the amount of the overdue premiums may be deducted in a settlement made under the policy. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

(a) A provision that the insured is entitled to a stated period of grace of at least four (4) weeks within which the payment of any premium after the first may be made. During such period of grace the policy shall continue in full force, but in case the policy becomes a claim during the grace period, before the overdue premiums are paid, the amount of overdue premiums may be deducted in any settlement under the policy. . . .

Revised Law

Sec. 1151.058. NONFORFEITURE BENEFITS AND CASH SURRENDER VALUES IN GENERAL. An industrial life insurance policy must provide, in case of default in payment of premiums, nonforfeiture benefits and cash surrender values in accordance with:

- (1) Sections 1151.152-1151.154; or
- (2) Chapter 1105, for a policy issued on or after the date determined under Section 1105.002(a) or (b), as applicable. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . . .

(e) Provisions for non-forfeiture benefits in event of default in premium payments and for cash surrender values in accordance with the provisions of subsections

(e), (f) and (g) of this Section in the case of policies issued prior to the operative date of Article 3.44a (the Standard Non-forfeiture Law), and in accordance with provisions of Article 3.44a in the case of policies issued on or after said date. . . .

Revisor's Note

Section 2, V.T.I.C. Article 3.52, provides that certain provisions must be included in policies issued "prior to the operative date of [V.T.I.C.] Article 3.44a." Section 13, V.T.I.C. Article 3.44a, which defines the "operative date" of that article, is revised as Section 1105.002. The revised law omits the reference to "the operative date" of the law and substitutes a clear statement of the law's applicability to certain life insurance policies. Accordingly, the revised law in this section omits the quoted language and substitutes language consistent with Section 1105.002. Comparable changes have been made throughout this chapter.

Revised Law

Sec. 1151.059. SURPLUS. An industrial life insurance policy that is a participating policy must provide that the insurer shall annually determine and apportion any divisible surplus accruing on the policy. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

(k) In the case of an insurer issuing participating policies in this State, a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy. . . .

Revised Law

Sec. 1151.060. CLAIM BASED ON DEATH OF INSURED. An industrial life insurance policy must provide that if a claim arises as the result of the death of the insured, the insurer shall settle the claim not later than two months after the date

the insurer receives at the insurer's home office:

- (1) proof of death satisfactory to the insurer; and
- (2) proof of the right of the claimant to the insurance proceeds. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

- (i) A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of, at the insurer's home office, or not later than two (2) months after such receipt of, proof of death satisfactory to the insurer and the right of the claimant to the proceeds. . . .

Revised Law

Sec. 1151.061. REINSTATEMENT OF POLICY. (a) An industrial life insurance policy must provide that unless the cash surrender value has been paid or the term of extended insurance has expired, the policy may be reinstated not later than the first anniversary of or, at the option of the insurer, not later than the 52nd week after the date of default in payment of premiums if the insured:

- (1) pays all overdue premiums;
- (2) pays or reinstates any other debt owed to the insurer on the policy; and
- (3) presents evidence of insurability satisfactory to the insurer.

(b) The insurer may impose on the overdue premiums interest at an annual rate specified in the policy, not to exceed six percent. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

- (h) A provision that the policy may be reinstated within one (1) year, or, at the option of the insurer, within fifty-two

(52) weeks from the date of default in payment of premiums, unless the cash surrender value has been paid or the period of extended insurance has expired, upon payment of all overdue premiums, the payment or reinstatement of any other indebtedness due to the insurer upon said policy, and upon the presentation of evidence of insurability satisfactory to the insurer. The overdue premiums may, at the option of the insurer, be subject to interest at a rate not exceeding six (6%) per cent per annum as may be specified in the policy. . . .

Revisor's Note

Section 2, V.T.I.C. Article 3.52, refers to a "period of extended insurance." Throughout the revised law, the word "term" is used in connection with the phrase "extended insurance" because that is the correct way to describe the period of coverage.

Revised Law

Sec. 1151.062. EXCEPTION FOR POLICIES ISSUED OR GRANTED UNDER CERTAIN NONFORFEITURE PROVISIONS. This subchapter does not apply to a policy issued or granted under a nonforfeiture provision prescribed by Section 1151.058. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:

. . . .

(1) . . . The provisions of Section 2 shall not apply to policies issued or granted pursuant to the nonforfeiture provisions prescribed in clause (e) of said Section . . . .

[Sections 1151.063-1151.100 reserved for expansion]

SUBCHAPTER C. AUTHORIZED OR PROHIBITED POLICY PROVISIONS

Revised Law

Sec. 1151.101. AUTHORIZED PROVISIONS. In addition to the provisions required by Subchapter B and Section 1151.152, an

industrial life insurance policy may:

(1) exclude liability or promise a benefit that is less than the full amount payable as a death benefit if the insured:

(A) dies by the insured's own hand, regardless of whether the insured is sane or insane; or

(B) dies as a result of engaging in a stated hazardous occupation;

(2) promise a benefit that is less than the full amount payable if the insured dies as a result of an aviation activity under a condition specified in the policy approved by the department as provided by Article 3.42;

(3) limit the maximum amount payable on the death of a child younger than 15 years of age; and

(4) include any other provision not otherwise prohibited by this chapter. (V.T.I.C. Art. 3.52, Secs. 4, 5 (part).)

#### Source Law

Sec. 4. In addition to the provisions required by Section 2, any policy of industrial life insurance delivered or issued for delivery in this State may contain, in substance, the following provisions, in addition to any other provision or provisions not elsewhere prohibited by this Article:

(a) A provision excluding liability or promising a benefit less than the full amount payable as a death benefit in case of the death of the insured by his own hand while sane or insane, or by following stated hazardous occupations.

(b) A provision limiting the maximum amount payable on the death of an infant under fifteen (15) years of age.

Sec. 5. . . . any company may issue a policy promising a benefit less than the full benefit in case of the death of the insured by his own hand while sane or insane or by following stated hazardous occupations or in the event the death of the insured should result from aviation activities under the conditions specified in the policy to be approved by the Board of Insurance Commissioners as provided in Chapter 3 of this code.



Revisor's Note

(1) Section 5, V.T.I.C. Article 3.52, refers to the "Board of Insurance Commissioners." Under Chapter 499, Acts of the 55th Legislature, Regular Session, 1957, administration of the insurance laws of this state was reorganized and the powers and duties of the Board of Insurance Commissioners were transferred to the State Board of Insurance. Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the State Board of Insurance and transferred its functions to the commissioner of insurance and the Texas Department of Insurance. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance and the Texas Department of Insurance, respectively. Throughout this chapter, references to the Board of Insurance Commissioners and the State Board of Insurance have been changed appropriately.

(2) Section 5, V.T.I.C. Article 3.52, states that policy liability may be excluded or a benefit may be reduced for a death resulting from aviation activities "under the conditions specified in the policy to be approved by the Board of Insurance Commissioners as provided in Chapter 3 of this code." The portions of Chapter 3 that govern approval of life insurance policies are contained in Article 3.42. The revised law is drafted accordingly.

Revised Law

Sec. 1151.102. PROHIBITED PROVISIONS. (a) An industrial life insurance policy may not:

(1) require a cause of action based on the policy to be initiated before the second anniversary of the date the cause of action accrues; or

(2) except as otherwise provided by this subchapter, establish a method of settlement at maturity that provides less value than the face amount of insurance coverage provided by the policy and any dividend additions to the policy, less:

(A) any debt owed to the insurer on the policy; and

(B) any premium that may be deducted under the terms of the policy.

(b) Subsection (a)(2) does not prevent a limitation from being imposed on payment of an additional accidental death benefit in case of accidental death resulting from certain specified causes.

(c) A nonparticipating or term policy may not incorporate any part of a provision described by Subchapter B or Section 1151.152 that does not apply to that type of policy. (V.T.I.C. Art. 3.52, Secs. 2 (part), 5 (part).)

Source Law

Sec. 2. No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:

. . .

(1) . . . Any of the provisions of Section 2, or portions thereof, not applicable to nonparticipating or term policies shall, to that extent, not be incorporated therein. . . .

Sec. 5. No industrial life insurance policy delivered or issued for delivery in the State of Texas shall contain any provision which (a) limits the time within which any action at law or in equity may be commenced to less than two (2) years after the cause of action shall accrue; (b) except as otherwise provided herein, provides for any mode of settlement at maturity of less value than the amounts insured on the face of the policy, plus dividend additions thereto, if any, less any indebtedness to the insurer on the policy, and less any premium that may, by the terms of the policy, be deducted, and provided also that this provision shall not prevent an additional accidental death benefit being limited so as not to be payable in event of death from certain causes of accidents; and further providing that . . . .

Revisor's Note

Section 5, V.T.I.C. Article 3.52, refers to an "action at law or in equity." The reference to "at law or in equity" is omitted from the revised law as unnecessary because, in context, that language is included within

the meaning of "cause of action."

[Sections 1151.103-1151.150 reserved for expansion]

SUBCHAPTER D. RIGHTS OF INSURED UNDER CERTAIN OLDER POLICIES  
Revised Law

Sec. 1151.151. EXTENDED TERM OR PAID-UP INSURANCE FOR CERTAIN POLICIES. (a) This section applies only to a policy delivered or issued for delivery in this state before March 29, 1941, under former Article 3.43 of this code.

(b) An insured or a beneficiary of the insured is entitled to elect extended term or paid-up insurance under an industrial life insurance policy that does not by its terms provide a stipulated form of insurance to the insured or beneficiary on default in payment of premiums if:

(1) premiums have been paid on the policy for at least three years; and

(2) the insured or beneficiary gives written notice of the election to the insurer at the insurer's home office before the expiration of the term of extended insurance.

(c) An insured or beneficiary who does not make an election as provided by Subsection (b) is considered to have elected extended term insurance.

(d) The net value of extended term or paid-up insurance shall be determined as provided by Section 1151.153. (V.T.I.C. Art. 3.52, Sec. 3.)

Source Law

Sec. 3. Any policy of industrial life insurance delivered or issued for delivery in this State prior to March 29, 1941, and pursuant to the provisions of Article 3.43, and upon which premiums have been paid for three (3) full years, which does not by its terms secure, upon default in payments of premiums, to the insured or beneficiary thereof, a stipulated form of insurance, shall nevertheless entitle such insured or beneficiary to either extended or paid-up insurance, the net value of which shall be determined as is provided in clause (e) of Section 2 of this article, providing such insured or beneficiary elects and notifies the home office of the insurer in writing, prior to the expiration of the period of extended insurance, which of said two (2) forms he has elected to take; and any such insured or beneficiary failing to elect and notify the insurer in writing of such election within such time shall be deemed to

have elected extended insurance.

Revisor's Note

Section 3, V.T.I.C. Article 3.52, refers to "the provisions of Article 3.43." The revised law substitutes the phrase "former Article 3.43" because Article 3.43 was repealed in 1957.

Revised Law

Sec. 1151.152. PROVISIONS CONCERNING STIPULATED FORM OF INSURANCE OR SPECIFIED CASH SURRENDER VALUE IN CERTAIN POLICIES.

(a) An industrial life insurance policy issued before the date described by Section 1151.058(2) must contain a provision substantially as follows:

(1) in case of default in payment of premiums:

(A) after premiums have been paid for three years, a stipulated form of insurance is available, effective from the due date of the defaulted premium; and

(B) after premiums have been paid for five years, the stipulated form of insurance described by Paragraph (A) or a specified cash surrender value is available, at the election of the insured; and

(2) the stipulated form of insurance takes effect unless the insured applies in writing for the specified cash surrender value within the grace period following the due date of the defaulted premium.

(b) The policy must:

(1) state the amount and term of the stipulated form of insurance, computed assuming that there is no debt owed on or dividend additions to the policy;

(2) specify the mortality table, the rate of interest, and the method of valuation, if a method of valuation other than net level premium is used, adopted for computing the reserve on the policy; and

(3) provide a table showing in numbers the nonforfeiture options available under the policy at the end of each year in case of default in payment of premiums.

(c) Subsections (a), (b)(1), and (b)(3) do not apply to a term insurance policy with a term of 20 years or less.

(d) The table described by Subsection (b)(3) must begin with the year in which the numbers on the nonforfeiture options become available and must cover not more than the first 20 years of the policy. On the expiration of the period for which the numbers are shown by the policy, the insurer shall provide an extension of the table on request. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . . .

(e) . . . Policies issued prior to the operative date of Article 3.44a shall contain a provision substantially as follows: a provision that in event of default in premium payments after premiums shall have been paid for three (3) full years there shall be available a stipulated form of insurance effective from the due date of the defaulted premium; and in event of default in premium payments after premiums shall have been paid for five (5) full years there shall be available, in lieu of the stipulated form of insurance, at the option of the insured, a specified cash surrender value. . . . The policy shall state the amount and term of the stipulated form of insurance calculated upon the assumption of no indebtedness on the policy and no dividend additions thereto. . . . In the event that application, which must be in writing, for a stipulated form of insurance or the specified cash surrender value when the same are available, is not made within the grace period, it shall be provided that a stipulated form of insurance shall automatically become effective.

(f) In the case of policies issued prior to the operative date of Article 3.44a, a provision specifying the mortality table, rate of interest, and method of valuation if other than net level premium, adopted for computing the life insurance reserves on the contract.

(g) In the case of policies issued prior to the operative date of Article 3.44a, a table showing in figures the non-forfeiture options available under the policy at the end of each year upon default in premium payments during the premium paying period, but not to exceed the first twenty (20) years of the

policy. Such table is to begin with the year in which such values become available. At the expiration of the period for which such values are shown in the policy, the insurer will furnish upon request an extension of such table.

. . .

(1) . . . nor shall clauses (e) and (g) of said Section be required in term insurances of twenty (20) years or less.

Revisor's Note

Section 2, V.T.I.C. Article 3.52, refers to a "default in premium payments during the premium paying period." The revised law omits the phrase "during the premium paying period" as unnecessary. A default in payment of premiums could not occur outside of the payment period.

Revised Law

Sec. 1151.153. COMPUTATION OF NET VALUE OF STIPULATED FORM OF INSURANCE OR SPECIFIED CASH SURRENDER VALUE. (a) The net value of the stipulated form of insurance or the specified cash surrender value available under Section 1151.152 may not be less than the reserve on the policy at the end of the last completed quarter of the policy year for which premiums have been paid, less:

(1) an amount of not more than:

(A) 2-1/2 percent of the maximum amount insured under the policy and any dividend additions to the policy, if the age of the insured on the date the policy was issued is younger than 10 years; or

(B) 2-1/2 percent of the amount insured under the policy at the time the computation is made and any dividend additions to the policy, if the age of the insured on the date the policy was issued is 10 years or older; and

(2) any existing debt to the insurer on or secured under the policy.

(b) The reserve described by Subsection (a):

(1) includes:

(A) the reserve for any paid-up additions to the policy; and

(B) the amount of any dividends credited to the policy; and

(2) excludes any reserve on:

(A) total or permanent disability, as defined by the policy; and

(B) additional accidental death benefits.

(c) In computing the value of paid-up term insurance with any accompanying pure endowment, a rate of mortality may be assumed that is not more than:

(1) 130 percent of the rate of mortality according to the applicable table, if the 1941 Standard Industrial Mortality Table or the 1941 Sub-standard Industrial Mortality Table is adopted for computing the reserve; or

(2) the rate of mortality shown by:

(A) the Commissioners 1961 Industrial Extended Term Insurance Table, if the Commissioners 1961 Standard Industrial Mortality Table is adopted for computing the reserve; or

(B) any other mortality table specified by the insurer and approved by the department, if the policy is substandard. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .

(e) . . . The net value of the stipulated form of insurance, and the specified cash surrender value, shall not be less than the reserve on the policy at the end of the last completed quarter of the policy year for which premiums shall have been paid, including the reserve for any paid-up additions thereto and the amount of any dividends standing to the credit of the policy, and excluding any reserve on total and permanent disability, as defined in the policy, and additional accidental death benefits, less a sum of not more than:

(1) Two and one-half per cent (2 1/2%) of the maximum amount insured by the policy and dividend additions thereto, if any, when the issue age is under ten (10) years;

(2) Two and one-half per cent (2 1/2%) of the current amount insured by the policy and dividend additions thereto, if any, when the issue age is ten (10) years or older; and less any existing indebtedness to the insurer on or secured by the policy.

If the mortality table adopted for

computing such reserve is the 1941 Standard Industrial Mortality Table or the 1941 Sub-standard Industrial Mortality Table, then in calculating the value of the paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than one hundred thirty per cent (130%) of the rate of mortality according to the table used. If the mortality table adopted for computing such reserve is the Commissioners 1961 Standard Industrial Mortality Table, then in calculating the value of paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than that shown in the Commissioners 1961 Industrial Extended Term Insurance Table, or, in the case of sub-standard policies, such other table of mortality as may be specified by the company and approved by the State Board of Insurance. . . .

Revisor's Note

Section 2, V.T.I.C. Article 3.52, refers to a table of mortality specified by "the company." The revised law substitutes "insurer" for "company" for consistency with other references in this chapter.

Revised Law

Sec. 1151.154. SURRENDER OF POLICY FOR SPECIFIED CASH SURRENDER VALUE. (a) An industrial life insurance policy issued before the date described by Section 1151.058(2) under which the insured applies for cash surrender value must be surrendered for the specified cash surrender value to the insurer at the insurer's home office within the grace period following the due date of the defaulted premium.

(b) The insurer may defer payment for a period of not more than six months after the date of application for the specified cash surrender value. (V.T.I.C. Art. 3.52, Sec. 2 (part).)

Source Law

Sec. 2. [No policy of industrial life insurance shall be delivered or issued for delivery in this State, unless the same shall contain in substance the following provisions:]

. . .



(e) . . . The policy may be surrendered to the insurer at its home office within the period of grace after the due date of the defaulted premium for the specified cash surrender value, provided that the insurer may defer payment for not more than six (6) months after the application therefor is made. . . .

Revisor's Note  
(End of Chapter)

Section 6, V.T.I.C. Article 3.52, prohibits the delivery or issuance for delivery in this state of an industrial life insurance policy or the attachment to or the printing or stamping on the policy of a rider or endorsement without the approval of the Texas Board of Insurance Commissioners. Section 6 is derived from Section 6, Chapter 89, Acts of the 47th Legislature, Regular Session, 1941, and is substantively identical to Chapter 89 as originally enacted. The revised law omits this provision as duplicative of, and partially impliedly repealed by, V.T.I.C. Article 3.42, which was extensively amended by Chapter 501, Acts of the 55th Legislature, Regular Session, 1957, to comprehensively regulate approval of life insurance policy forms. At the same time, the legislature amended Article 3.42 to expressly apply to industrial life insurance policies. The omitted law reads:

Sec. 6. No insurance company transacting business in this State shall hereafter deliver or issue for delivery in this State any policy of industrial life insurance, or any policy of industrial life insurance providing for accident and health benefits in addition to natural death benefits, or attach to, or print or stamp upon such policy, any rider, or endorsement, until the form of such policy, rider, or endorsement has been submitted to and approved by the Board of Insurance Commissioners of the State of Texas. It shall be the duty of the Board of Insurance Commissioners to disapprove any such policy, rider, or endorsement if it

violates any of the provisions of this article, and to give written notice to the insurer of such disapproval in which notice the Board shall specify the particulars in respect to which the policy, rider, or endorsement violates the provisions of this article. If the Board of Insurance Commissioners shall disapprove any such policy, rider, or endorsement, the insurer may, within ninety (90) days after the mailing of the written notice of such disapproval by the Board, institute proceedings in the District Court of Travis County, Texas, to review the action of the Board thereon.

CHAPTER 1152. SEPARATE ACCOUNTS, VARIABLE CONTRACTS, AND  
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CHAPTER 1152. SEPARATE ACCOUNTS, VARIABLE CONTRACTS, AND  
RELATED PRODUCTS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1152.001. APPLICABILITY OF CODE. (a) Except as provided by Subsection (b), this code applies to separate accounts described by this chapter and contracts relating to those accounts.

(b) The following sections do not apply to the separate accounts and contracts:

- (1) Sections 882.303 and 882.703;
- (2) Subchapters H and J, Chapter 882;
- (3) Sections 1101.002(b), 1101.005, 1101.009, 1101.012, 1101.052, 1101.055, and 1101.152-1101.156;
- (4) Chapter 1105; and
- (5) Section 1131.103.

(c) A separate account established under former Article 3.39 Part III, 3.72, or 3.73 is considered to be established under this chapter. A policy or other agreement issued before September 1, 1984, under one of those articles remains subject to the article, as the article existed immediately before September 1, 1984. (V.T.I.C. Art. 3.75, Sec. 9.)

#### Source Law

Sec. 9. (a) This code applies to separate accounts and contracts relating to separate accounts except for Subdivisions 2, 6, 7, 8, 9, 11, and 12, Article 3.44, as amended; Article 3.44a, as amended; Subdivision 3, Article 3.45; Subdivision 1, Section 2, Article 3.50, as amended; Article 11.12, as amended; Article 11.13; and Article 11.14, Insurance Code.

(b) Notwithstanding any other law, or any other provision of this article, after the effective date of the repeal of Articles 3.39 Part III, 3.72, and 3.73, Insurance Code, all separate accounts established under such articles are deemed and shall be construed to be established under Article 3.75; provided any policy, contract, or agreement issued before such repeal in accordance with the provisions of such articles, shall be construed under and continue to be subject to all provisions of the applicable article under which they were issued, as amended and in effect at the time of such repeal.

#### Revisor's Note

(1) Section 9(a), V.T.I.C. Article 3.75, refers to "Article 3.44, as amended; . . . Article 3.50, as amended; [and] Article 11.12, as amended." Throughout this chapter, the revised law omits the reference to "as amended" because under Section 311.027, Government Code (Code Construction Act), applicable to the revised

law, a reference to a statute applies to all reenactments, revisions, and amendments of the statute.

(2) Section 9(b), V.T.I.C. Article 3.75, refers to "the effective date of the repeal of Articles 3.39 Part III, 3.72, and 3.73." Effective September 1, 1984, Section 3, Chapter 648, Acts of the 68th Legislature, Regular Session, 1983, repealed Articles 3.39 Part III, 3.72, and 3.73. The revised law is drafted accordingly.

(3) Section 9(b), V.T.I.C. Article 3.75, states that all separate accounts established "after the effective date of the repeal of Articles 3.39 Part III, 3.72, and 3.73" are "deemed and shall be construed to be established under Article 3.75." The revised law omits this provision because it is executed.

(4) Section 9(b), V.T.I.C. Article 3.75, refers to a "policy, contract, or agreement." The revised law substitutes "policy or other agreement" for the quoted language because a contract is a type of agreement. A policy is also a type of contract (and agreement), but is retained in the revised law for clarity.

#### Revised Law

Sec. 1152.002. RULES. The commissioner may adopt rules that are fair, reasonable, and appropriate to augment and implement this chapter, including rules establishing requirements for:

- (1) agent licensing;
- (2) standard policy provisions; and
- (3) disclosure. (V.T.I.C. Art. 3.75, Sec. 8 (part).)

#### Source Law

Sec. 8. The State Board of Insurance may establish such rules, regulations, or limitations which are fair and reasonable as may be appropriate for the augmentation and implementation of this article, including but not limited to requirements for licensing agents, standard policy provisions, and disclosure requirements. . . .

#### Revisor's Note

(1) Section 8, V.T.I.C. Article 3.75, refers to the "State Board of Insurance."

Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished that board and transferred its functions to the commissioner of insurance and the Texas Department of Insurance, as appropriate. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance and the Texas Department of Insurance, respectively. Throughout this chapter, references to the board have been changed appropriately.

(2) Section 8, V.T.I.C. Article 3.75, permits the State Board of Insurance to establish "rules, regulations, or limitations." The revised law omits the reference to "regulations or limitations" as unnecessary. Under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law. In addition, any "limitation" established by the State Board of Insurance could only be established by rule.

(3) Section 8, V.T.I.C. Article 3.75, refers to "including, but not limited to." Throughout this chapter, "but not limited to" and similar language is omitted as unnecessary because Section 311.005(13), Government Code (Code Construction Act), and Section 312.011(19), Government Code, provide that "includes" and "including" are terms of enlargement and not of limitation and do not create a presumption that components not expressed are excluded.

[Sections 1152.003-1152.050 reserved for expansion]

#### SUBCHAPTER B. SEPARATE ACCOUNTS

##### Revised Law

Sec. 1152.051. ESTABLISHMENT OF SEPARATE ACCOUNTS. A domestic life insurance company may establish separate accounts under this subchapter and may allocate to each account amounts, including proceeds applied under optional modes of settlement or under dividend options, to:

(1) provide for life insurance, an annuity, or a benefit incidental to the insurance or annuity, payable in a fixed amount, a variable amount, or both a fixed amount and a variable amount; or

(2) fund a benefit for a pension, retirement, or profit sharing plan payable in a fixed amount, a variable amount, or both a fixed amount and a variable amount. (V.T.I.C. Art. 3.75, Sec. 1(a).)

Source Law

Art. 3.75

Sec. 1. (a) A domestic life insurance company may establish one or more separate accounts and may allocate to each account amounts, including without limitation proceeds applied under optional modes of settlement or under dividend options, to provide for life insurance or annuities and benefits incidental to the insurance and annuities, payable in fixed or variable amounts or both, or to fund the benefits of a pension, retirement, or profit sharing plan payable in fixed or variable amounts or both fixed and variable amounts, subject to this section.

Revised Law

Sec. 1152.052. OWNERSHIP OF AMOUNTS IN SEPARATE ACCOUNT.

(a) An insurance company owns an amount allocated to a separate account under this subchapter.

(b) The company is not and may not represent itself as a trustee regarding an amount allocated to a separate account under this subchapter. (V.T.I.C. Art. 3.75, Sec. 1(f) (part).)

Source Law

(f) Amounts allocated to a separate account under this article are owned by the company, and the company is not and may not represent itself as a trustee with respect to these amounts. . . .

Revised Law

Sec. 1152.053. TRANSFER OF ASSETS BETWEEN SEPARATE ACCOUNTS. (a) Except as provided by Subsection (b), an insurance company may not sell, exchange, or otherwise transfer an asset between the company's separate accounts or between any other investment account and a separate account unless:

(1) in case of a transfer into a separate account, the transfer is made solely to establish the account or to support the operation of a contract regarding the separate account to which the transfer was made; and

(2) the transfer, whether into or from a separate

account, is made:

- (A) by a transfer of cash; or
- (B) by a transfer of securities if the securities have a readily determinable market value and the commissioner approves the transfer.

(b) The commissioner may approve a transfer between accounts other than a transfer described by Subsection (a) if, in the commissioner's opinion, the transfer would not be inequitable. (V.T.I.C. Art. 3.75, Secs. 1(g), (h).)

Source Law

(g) Except as provided by Subsection (h) of this section, a sale, exchange, or other transfer of assets may not be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(1) in case of a transfer into a separate account, the transfer is made solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made; and

(2) the transfer, whether into or from a separate account, is made:

- (A) by a transfer of cash; or
- (B) by a transfer of securities having a readily determinable market value, provided the transfer of securities is approved by the commissioner.

(h) The commissioner may approve other transfers among accounts if in his opinion the transfers would not be inequitable.

Revised Law

Sec. 1152.054. COMPLIANCE WITH FEDERAL OR STATE LAW FOR SEPARATE ACCOUNT. (a) To comply with a federal or state law, an insurance company with respect to any separate account, including a separate account that is a management investment company or a unit investment trust, may, to the extent the company considers it necessary, provide:

(1) for appropriate voting and other rights for persons who have an interest in the account; and

(2) special rights and procedures to conduct the business of the account, including rights and procedures related to:

- (A) investment policy;
- (B) investment advisory services;



(C) selection of independent public accountants;  
and

(D) selection of a committee to manage the  
business of the account.

(b) The members of a committee selected under Subsection  
(a)(2)(D) are not required to be affiliated with the company.  
(V.T.I.C. Art. 3.75, Sec. 1(i).)

Source Law

(i) To the extent the company considers  
it necessary to comply with any applicable  
federal or state laws, the company with  
respect to any separate account, including  
without limitation any separate account that  
is a management investment company or a unit  
investment trust, may provide for persons  
having an interest in the account appropriate  
voting and other rights and special  
procedures for the conduct of the business of  
the account, including without limitation  
special rights and procedures relating to  
investment policy, investment advisory  
services, selection of independent public  
accountants, and selection of a committee,  
the members of which need not be affiliated  
with the company, to manage the business of  
such account.

Revised Law

Sec. 1152.055. GUARANTEED BENEFITS AND MONEY RESTRICTION  
FOR SEPARATE ACCOUNTS. An insurance company may not maintain a  
reserve for a benefit guaranteed as to dollar amount and duration  
or funds guaranteed as to principal amount or stated rate of  
interest in a separate account except with the commissioner's  
approval and under conditions for investments, and other matters,  
that recognize the guaranteed nature of the benefits provided and  
that are prescribed by the department. (V.T.I.C. Art. 3.75, Sec.  
1(d).)

Source Law

(d) Reserves for benefits guaranteed as  
to dollar amount and duration and funds  
guaranteed as to principal amount or stated  
rate of interest may not be maintained in a  
separate account except with the approval of  
the Commissioner of Insurance and under  
conditions for investments, and other  
matters, that recognize the guaranteed nature

of the benefits provided and that are prescribed by the State Board of Insurance.

Revised Law

Sec. 1152.056. INVESTMENT LIMITS NOT APPLICABLE TO SEPARATE ACCOUNT. Except as provided by Section 1152.055:

(1) an amount allocated to a separate account, including an accumulation on that amount, may be invested without regard to a law of this state governing a life insurance company investment; and

(2) an investment in a separate account may not be considered in applying an investment limit otherwise applicable to the insurance company. (V.T.I.C. Art. 3.75, Sec. 1(c).)

Source Law

(c) Except as provided by Subsection (d) of this section, amounts allocated to any separate account and accumulations on those amounts may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies, and the investments in a separate account may not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

Revisor's Note

Section 1(c), V.T.I.C. Article 3.75, states that an amount may be invested "without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies." The revised law omits the reference to "requirements or limitations" as unnecessary because the meaning of that phrase is included in the meaning of "laws." Being subject to a law is the same as being subject to that law's requirements, including any limitations contained in that law.

Revised Law

Sec. 1152.057. ALLOCATION OF INCOME, GAINS, OR LOSSES ON SEPARATE ACCOUNT. An insurance company shall credit to or charge against a separate account the income, gain, or loss, realized or unrealized, from an asset allocated to the account without regard to other income, gains, or losses of the insurance company.

(V.T.I.C. Art. 3.75, Sec. 1(b).)

Source Law

(b) The income, gains, and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account, without regard to other income, gains, or losses of the company.

Revised Law

Sec. 1152.058. ASSET VALUATION IN SEPARATE ACCOUNT. An asset allocated to a separate account is valued:

- (1) at its market value on the date of valuation;
- (2) as provided under a contract, rule, or other written agreement applicable to the separate account, if a readily available market does not exist;
- (3) as provided by the rules otherwise applicable to the insurance company's assets for any portion of the assets that is equal to the company's reserve liability with regard to the guaranteed benefits and funds under Section 1152.055; or
- (4) under any other method approved by the commissioner. (V.T.I.C. Art. 3.75, Sec. 1(e).)

Source Law

(e) Unless the commissioner approves another method of valuation, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to the separate account. The portion, if any, of the assets of the separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds under Subsection (d) of this section shall be valued as provided by the rules otherwise applicable to the company's assets, unless the commissioner approves another method of valuation.

Revised Law

Sec. 1152.059. SEPARATE ACCOUNT NOT CHARGEABLE WITH OTHER LIABILITIES. To the extent provided under the applicable contracts, the portion of a separate account's assets equal to the reserves and other contract liabilities regarding that

account is not chargeable with a liability arising out of any other business of the insurance company. (V.T.I.C. Art. 3.75, Sec. 1(f) (part).)

Source Law

(f) . . . To the extent provided under the applicable contracts, the portion of the assets of a separate account equal to the reserves and other contract liabilities with respect to that account are not chargeable with liabilities arising out of any other business the company may conduct.

[Sections 1152.060-1152.100 reserved for expansion]

SUBCHAPTER C. VARIABLE CONTRACTS

Revised Law

Sec. 1152.101. SOLE AUTHORITY TO REGULATE VARIABLE CONTRACTS. The commissioner has sole authority to regulate the issuance and sale of a variable contract under:

- (1) this chapter; and
- (2) rules adopted under Section 1152.002. (V.T.I.C. Art. 3.75, Sec. 8 (part).)

Source Law

Sec. 8 . . . Notwithstanding any other law, the commissioner has sole authority to regulate the issuance and sale of variable contracts under this article and under such rules, regulations, standards, or limitations adopted by the State Board of Insurance.

Revisor's Note

Section 8, V.T.I.C. Article 3.75, refers to "rules, regulations, standards, or limitations." The revised law omits "regulations, standards, or limitations" for the reasons given in Revisor's Note (2) to Section 1152.002.

Revised Law

Sec. 1152.102. AUTHORIZATION REQUIRED FOR VARIABLE CONTRACTS. (a) An insurance company may not deliver or issue for delivery a variable contract in this state unless authorized by the commissioner under this section.

(b) If the commissioner finds, after notice and hearing, that the company is qualified to issue, deliver, and use a variable contract under this chapter and rules adopted under Section 1152.002, the commissioner shall issue an order relating

to the company's authority to issue, deliver, and use a variable contract in this state. (V.T.I.C. Art. 3.75, Sec. 3 (part).)

Source Law

Sec. 3. A company may not deliver or issue for delivery in this state variable contracts unless after notice and hearing, the commissioner shall find that the company is qualified to issue, deliver, and use variable contracts in accordance with this article and the regulations issued thereunder. The commissioner shall issue an official order of authorization relating to the company's authority to issue, deliver, and use variable contracts in this state. . . .

Revisor's Note

Section 3, V.T.I.C. Article 3.75, refers to certain "regulations." The revised law substitutes "rules" for "regulations." "Rule" is the term more commonly used and is the term used by Chapter 2001, Government Code, the administrative procedure law. Also, under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

Revised Law

Sec. 1152.103. CONSIDERATION OF COMPANY'S CONDITION OR METHOD OF OPERATION. (a) For purposes of this section, the domicile of an alien company is its state of entry.

(b) In considering a company's condition or method of operation, the factors the commissioner shall consider must include:

- (1) the company's history and financial condition;
- (2) the character, responsibility, and fitness of the company's officers and directors;
- (3) the law, including rules, under which the company is authorized to do business in the state of domicile to issue a variable contract; and
- (4) whether the condition or method of operation in connection with the issuance of a variable contract will make the company's operation hazardous to the public or the company's policyholders in this state. (V.T.I.C. Art. 3.75, Secs. 3(b), (c).)

#### Source Law

(b) In considering the condition or method of operation the commissioner shall consider among other things:

(1) the history and financial condition of the company;

(2) the character, responsibility, and fitness of the officers and directors of the company;

(3) the law and rules under which the company is authorized to do business in the state of domicile to issue variable contracts; and

(4) whether the condition or method of operation in connection with the issuance of these contracts will render its operation hazardous to the public or its policyholders in this state.

(c) For the purposes of Subdivision (3) of Subsection (b) of this section, the state of entry of a foreign company is its place of domicile.

#### Revisor's Note

Section 3(c), V.T.I.C. Article 3.75, refers to the state of entry of a "foreign company." Under the Insurance Code, a "foreign company" generally refers to a United States company that was not organized in Texas, and an "alien company" refers to a company that was not organized in the United States. See Sections 6 and 7A, V.T.I.C. Article 3.01 (revised as part of Section 982.001). A "foreign company" would not "enter" a state, but an "alien company" would. In the context of Article 3.75 and the entire code, therefore, the source law reference to a "foreign company" must mean an "alien company." Throughout this chapter, the revised law is drafted accordingly.

#### Revised Law

Sec. 1152.104. AUTHORIZATION FOR SUBSIDIARY OR AFFILIATE OF AUTHORIZED LIFE INSURANCE COMPANY. The commissioner may determine, after notice and hearing, that a company that is a subsidiary of or affiliated with an authorized life insurance company through common management or ownership meets the requirements of this subchapter if either the company or the

parent or affiliated company meets the requirements of this subchapter. (V.T.I.C. Art. 3.75, Sec. 3(d).)

Source Law

(d) If a company is a subsidiary of an admitted life insurance company or affiliated with an admitted life insurance company through common management or ownership, the commissioner may after notice and hearing determine the company to have met the requirements of this section if either it or the parent or the affiliated company meets the requirements of this section.

Revisor's Note

Section 3(d), V.T.I.C. Article 3.75, refers to an "admitted" insurance company. Throughout this chapter, the revised law substitutes "authorized" for "admitted" because the terms are synonymous in context and the former is more commonly used throughout this code.

Revised Law

Sec. 1152.105. WAIVER OF HEARING REQUIREMENT. (a) If a company, its parent, or a commonly controlled affiliate is an authorized life insurance company, the company may apply to the commissioner for a waiver of the hearing requirements under Section 1152.102 or 1152.104.

(b) The commissioner may waive the hearing requirement if the commissioner determines that a hearing is not necessary to find the company qualified under this subchapter. (V.T.I.C. Art. 3.75, Sec. 3(e).)

Source Law

(e) If a company, its parent, or commonly controlled affiliate is an admitted life insurance company, the commissioner may, upon application by the company, waive the requirements for hearing provided in Subsections (a) and (d) of this section if the commissioner shall determine that a hearing is not necessary to find the company to be qualified under this section.

Revisor's Note

Section 3(e), V.T.I.C. Article 3.75, refers to "the requirements for hearing provided in Subsections (a) and (d) of this

section." Section 3 does not contain a Subsection (a), but the first paragraph of Section 3, which is not designated as a subsection, does contain a requirement for a hearing. That paragraph is revised as Section 1152.102, and the revised law is drafted accordingly.

Revised Law

Sec. 1152.106. RESERVE LIABILITY FOR VARIABLE CONTRACT. The reserve liability for a variable contract must be established under actuarial procedures that recognize:

- (1) the variable nature of the benefits provided; and
- (2) any mortality guarantees. (V.T.I.C. Art. 3.75, Sec. 4.)

Source Law

Sec. 4. The reserve liability for variable contracts must be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

Revised Law

Sec. 1152.107. SEPARATE ANNUAL STATEMENT REQUIRED. (a) An insurance company authorized under this subchapter to issue, deliver, or use a variable annuity contract or variable life contract shall file with the department a separate annual statement of its separate variable contract accounts.

(b) The company shall file the statement:

- (1) on a form prescribed or approved by the department; and
- (2) simultaneously with the annual statement required by Sections 841.255 and 882.003.

(c) The statement must:

- (1) include details as to all income, disbursements, assets, and liability items associated with the separate variable contract accounts; and
- (2) be under oath of two company officers. (V.T.I.C. Art. 3.75, Sec. 6.)

Source Law

Sec. 6. Every insurance company authorized pursuant to this article to issue, deliver, or use variable annuity contracts, variable life contracts, or both shall annually file with the State Board of Insurance a separate annual statement of its separate variable contract accounts. Such



statement shall be on a form prescribed or approved by the State Board of Insurance and shall include details as to all of the income, disbursements, assets, and liability items of and associated with the said separate variable contract accounts. Said statement shall be under oath of two officers of the company and shall be filed simultaneously with the annual statement required by Articles 3.07 and 11.06 of this code.

Revised Law

Sec. 1152.108. GRACE, REINSTATEMENT, AND NONFORFEITURE PROVISIONS REQUIRED. (a) An individual variable life insurance or individual variable annuity contract delivered or issued for delivery in this state must contain grace, reinstatement, and nonforfeiture provisions appropriate to the contract.

(b) A group variable contract delivered or issued for delivery in this state must contain a grace period provision appropriate to the contract. (V.T.I.C. Art. 3.75, Sec. 5.)

Source Law

Sec. 5. Each individual variable life insurance or individual variable annuity contract delivered or issued for delivery in this state must contain grace, reinstatement, and nonforfeiture provisions appropriate to the contract. Any group variable contract delivered or issued for delivery in this state shall contain a grace period appropriate to such contract.

Revised Law

Sec. 1152.109. VARIABLE BENEFITS PROVISIONS. (a) A contract providing benefits payable in variable amounts that is delivered or issued for delivery in this state must state the essential features of the procedures the insurance company will follow in determining the dollar amount of the variable benefits.

(b) A contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued under that group contract, must state:

(1) on its first page, that the benefits under the contract are on a variable basis; and

(2) that the dollar amount will vary. (V.T.I.C. Art. 3.75, Sec. 2.)

Source Law

Sec. 2. A contract providing benefits payable in variable amounts delivered or issued for delivery in this state must contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of the variable benefits. A contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued under that contract, must state that the dollar amount will vary and must contain on its first page a statement that the benefits under the contract are on a variable basis.

[Sections 1152.110-1152.150 reserved for expansion]

SUBCHAPTER D. VARIABLE CONTRACT AGENT'S LICENSE

Revised Law

Sec. 1152.151. VARIABLE CONTRACT AGENT'S LICENSE REQUIRED; CRITERIA FOR ISSUANCE. (a) A person may not sell or offer for sale in this state a variable contract, or act to negotiate, make, or consummate a variable contract for another, unless the department has licensed the person as a variable contract agent.

(b) The department may not issue the license unless the department is satisfied, after examination, that the person is qualified to act as a variable contract agent because of the person's training, knowledge, ability, and character. (V.T.I.C. Art. 3.75, Sec. 7(a) (part).)

Source Law

Sec. 7. (a) Notwithstanding any other law of this state, no person shall sell or offer for sale within this state a variable contract or do or perform any act or thing in the sale, negotiation, making, or consummating of any variable contract other than for himself, unless such person shall have a valid and current certificate from the State Board of Insurance authorizing such person to act within this state as a variable agent. No such certificate shall be issued unless and until said board is satisfied, after examination, that such person is by training, knowledge, ability, and character

qualified to act as such agent. . . .

Revisor's Note

(1) Section 7(a), V.T.I.C. Article 3.75, refers to the "sale, negotiation, making, or consummating of any variable contract." The revised law omits "sale" because its meaning is included in the meaning of the other quoted language.

(2) Section 7(a), V.T.I.C. Article 3.75, refers to a "valid and current certificate" issued to an agent. The remainder of Section 7 refers to a "license." The revised law refers to "license" throughout this subchapter for consistency. In addition, the revised law omits the reference to "valid and current" as unnecessary because the words do not add to the clear meaning of the law. For example, a document purporting to be a license is no longer a license if it is expired and is not a license if it is a forgery.

Revised Law

Sec. 1152.152. LICENSE AND EXAMINATION FEES. (a) Before issuing a license under Section 1152.151, the commissioner must receive from an applicant:

(1) a nonrefundable license fee in an amount not to exceed \$50; and

(2) unless the department accepts under Article 21.01-1 a qualifying examination administered by a testing service, an examination fee in an amount not to exceed \$20.

(b) The commissioner shall set the amount of the fees.

(c) A new examination fee must be paid for each examination.

(d) An examination fee may not be refunded unless the applicant:

(1) not later than 24 hours before the time the examination begins, notifies the commissioner that an emergency situation exists;

(2) receives the commissioner's permission to not take the examination; and

(3) does not appear to take the examination.

(V.T.I.C. Art. 3.75, Sec. 7(b) (part).)

Source Law

(b) The Commissioner of Insurance shall collect in advance from variable agent applicants a nonrefundable license fee in an

amount not to exceed \$50. Unless the State Board of Insurance accepts a qualifying examination administered by a testing service, as provided under Article 21.01-1, Insurance Code, as amended, the Commissioner of Insurance shall collect in advance from variable agent applicants an examination fee in an amount not to exceed \$20. The State Board of Insurance shall determine the amount of the fees. A new examination fee shall be paid for each and every examination. The examination fee shall not be returned under any circumstance other than for failure to appear and take the examination after the applicant has given at least 24 hours notice of an emergency situation to the Commissioner of Insurance and received the Commissioner's approval. . . .

Revised Law

Sec. 1152.153. EXPIRATION. A license issued to a variable contract agent expires on the second anniversary of the date the license is issued, unless it is suspended or revoked by the commissioner before that date. (V.T.I.C. Art. 3.75, Sec. 7(c).)

Source Law

(c) Each license issued to a variable contract agent shall expire two years following the date of issue, unless prior thereto it is suspended or revoked by the Commissioner of Insurance.

Revised Law

Sec. 1152.154. RENEWAL; FEE. (a) A person may renew a license issued under this subchapter in the manner provided by Article 21.01-2.

(b) The commissioner shall set the renewal fee in an amount not to exceed \$50.

(c) A person may not renew a license that has been suspended or revoked. (V.T.I.C. Art. 3.75, Sec. 7(f) (part).)

Source Law

(f) Licenses . . . which have not been suspended or revoked may be renewed by . . . [paying the nonrefundable renewal fee] set by the board in an amount not to exceed \$50 . . . in accordance with Article 21.01-2 of this code.

Revisor's Note

Section 7(f), V.T.I.C. Article 3.75, states that a license may be renewed under Article 21.01-2, and repeats some of the requirements contained in Article 21.01-2. The revised law omits this redundant language as unnecessary. The omitted law reads:  
[Licenses] which have not expired or . . .  
[may be renewed by] filing with the State Board of Insurance a completed renewal application and paying the nonrefundable renewal fee . . . on or before the expiration date of the license . . . .

Revised Law

Sec. 1152.155. REVOCATION. After notice and a hearing, the commissioner may revoke a variable contract agent's license if the commissioner finds that the license holder does not have the qualifications required for the issuance of the license.  
(V.T.I.C. Art. 3.75, Sec. 7(a) (part).)

Source Law

(a) . . . Any such certificate may be withdrawn and cancelled by said board, after notice and hearing, if it shall find that the holder thereof does not then have the qualifications required for issue of such certificate.

Revisor's Note

Section 7(a), V.T.I.C. Article 3.75, states that the department may "withdraw and cancel" a variable contract agent's license. Subsequent provisions of Section 7 refer to a license that is "revoked." For consistency throughout this chapter, the revised law substitutes "revoke" for "withdraw and cancel."

Revised Law

Sec. 1152.156. SUSPENSION. The commissioner shall suspend a variable contract agent's license if the agent is not operating under an appointment from an insurance company. The commissioner shall terminate the suspension when the department receives acceptable notice that an appointment exists. (V.T.I.C. Art. 3.75, Sec. 7(d).)

Source Law

(d) The Commissioner of Insurance shall

suspend the license of a variable agent during any period in which the agent does not have an outstanding valid appointment. The Commissioner of Insurance shall lift the suspension on receipt by the State Board of Insurance of acceptable notice of a valid appointment.

#### Revisor's Note

Section 7(d), V.T.I.C. Article 3.75, refers to an "outstanding valid appointment." The revised law omits "outstanding" and "valid" as unnecessary because in this context, the meaning of those terms is included in the meaning of an appointment. If an appointment is not "outstanding," then no appointment exists, and if an appointment was invalid, then no appointment was made. In addition, the revised law adds "from an insurance company" after "appointment." Section 7(g), V.T.I.C. Article 3.75, revised as Section 1152.158, provides that an insurance carrier appoints an agent for the purpose of Section 7; for consistency throughout this chapter, the revised law substitutes "insurance company" for "insurance carrier."

#### Revised Law

Sec. 1152.157. APPLICATION FOR LICENSE AFTER DENIAL OR REVOCATION. (a) A license applicant or holder whose application or license has been denied or revoked under this subchapter may not apply for a license as an insurance agent before the first anniversary of:

- (1) the effective date of the denial or revocation; or
- (2) the date of the final court order affirming that action, if the applicant or license holder seeks judicial review of the denial or revocation.

(b) The commissioner may deny a timely filed application if the applicant does not show good cause why the denial or revocation of the previous license application or license should not bar the issuance of a new license. (V.T.I.C. Art. 3.75, Sec. 7(e).)

#### Source Law

(e) A license applicant or licensee whose license application or license has been denied, refused, or revoked under this section may not apply for any license as an

insurance agent before the first anniversary of the effective date of the denial, refusal, or revocation, or, if the applicant or licensee seeks judicial review of the denial, refusal, or revocation, before the first anniversary of the date of the final court order or decree affirming that action. The Commissioner of Insurance may deny an application timely filed if the applicant does not show good cause why the denial, refusal, or revocation of the previous license application or license should not be considered a bar to the issuance of a new license.

Revisor's Note

(1) Section 7(e), V.T.I.C. Article 3.75, refers to a license that has been "denied, refused, or revoked." The revised law omits the references to "refused" because its meaning is included in the meaning of "denied."

(2) Section 7(e), V.T.I.C. Article 3.75, refers to a judicial "order or decree." The revised law omits "decree" because the terms are synonymous in context and because "order" is the more commonly used, modern drafting term.

Revised Law

Sec. 1152.158. MULTIPLE REPRESENTATION; APPLICATION; FEES.

(a) A variable contract agent may apply to act as an agent for more than one insurance company.

(b) The agent and the insurance company must give notice to the department of any additional appointment authorizing the agent to act as an agent for that company. The notice must be accompanied by:

(1) a certificate from the company that the company desires to appoint the applicant as its agent;

(2) a nonrefundable fee; and

(3) any other information that the department requires.

(c) The commissioner shall set the fee in an amount not to exceed \$16.

(d) The agent may act for the company if:

(1) the department approves the application for an additional appointment; or

(2) notice of disapproval is not received before the eighth day after the date on which the department received the

completed application and fee. (V.T.I.C. Art. 3.75, Sec. 7(g) (part).)

Source Law

(g) Any agent licensed under this article may represent and act as an agent for more than one insurance carrier any time while the license is in force, if the agent so desires. Any such agent and the insurance carrier involved must give notice to the State Board of Insurance of any additional appointment or appointments authorizing the agent to act as agent for an additional insurance carrier or carriers. Such notice shall be accompanied by a certificate from each insurance carrier to be named in each additional appointment that said insurance carrier desires to appoint the applicant as its agent. This notice shall also contain such other information as the State Board of Insurance may require. The agent or company shall be required to pay a nonrefundable fee in an amount not to exceed \$16 as determined by the State Board of Insurance for each additional appointment applied for, which fee shall accompany the notice. If approval of the additional appointment is not received from the board before the eighth day after the date on which the completed application and fee were received by the board, the agent and the insurance carrier, in the absence of notice of disapproval, may assume that the board approves the application, and the agent may act for the insurance carrier. . . .

Revised Law

Sec. 1152.159. DUPLICATE LICENSE. (a) A variable contract agent may request a duplicate for a license issued under this subchapter.

(b) The commissioner must collect a duplicate license fee from the agent before providing the duplicate to the agent. The commissioner shall set the fee in an amount not to exceed \$20. (V.T.I.C. Art. 3.75, Sec. 7(h).)

Source Law

(h) Duplicate License; Fee. The Commissioner of Insurance shall collect in advance from agents requesting duplicate



licenses a fee not to exceed \$20. The State Board of Insurance shall determine the amount of the fee.

Revised Law

Sec. 1152.160. USE OF FEES. The department shall deposit a fee collected under this subchapter to the credit of the Texas Department of Insurance operating account, to be used to administer this subchapter and Article 21.07-1. (V.T.I.C. Art. 3.75, Secs. 7(b) (part), (g) (part).)

Source Law

(b) . . . All fees collected pursuant to this section shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund to be used to administer the provisions of this section and Article 21.07-1, Insurance Code, as amended.

(g) . . . All fees collected pursuant to this section shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund to be used to administer the provisions of this article and Article 21.07-1, Insurance Code, as amended.

Revisor's Note

Sections 7(b) and (g), V.T.I.C. Article 3.75, state that fees "shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund." Under Chapter 4, Acts of the 72nd Legislature, 1st Called Session, 1991, the Texas Department of Insurance operating fund (the later name of the State Board of Insurance operating fund) was converted to an account in the general revenue fund. The revised law has been drafted accordingly.

[Sections 1152.161-1152.200 reserved for expansion]

SUBCHAPTER E. MODIFIED GUARANTEED CONTRACTS

Revised Law

Sec. 1152.201. DEFINITION. In this subchapter, "modified guaranteed contract" means an individual life insurance policy or deferred annuity contract as to which:

(1) the underlying assets are held in a separate account; and

(2) the values are guaranteed if the policy or contract is held for a specified period. (V.T.I.C. Art. 3.75, Sec. 10(a) (part).)

Source Law

Sec. 10. (a) For purposes of this section, "modified guaranteed contracts" means individual policies of life insurance and deferred annuity contracts, the underlying assets of which are held in a separate account and the values of which are guaranteed if held for specified periods. . . .

Revised Law

Sec. 1152.202. APPLICABILITY OF LAWS GOVERNING LIFE INSURANCE COMPANIES. Unless otherwise approved by the commissioner, the laws of this state governing the investments of life insurance companies apply to an asset held in a separate account that relates to a modified guaranteed contract that provides for nonforfeiture values that may vary based on a market-value adjustment formula. (V.T.I.C. Art. 3.75, Sec. 10(b) (part).)

Source Law

(b) Notwithstanding any provision of this article to the contrary, the following requirements shall apply to modified guaranteed contracts:

(1) Unless otherwise approved by the Commissioner, assets held in separate accounts, relating to modified guaranteed contracts providing nonforfeiture values which may vary based on a market-value adjustment formula, shall be subject to the requirements and limitations prescribed by the laws of this state governing the investments of life insurance companies. . . .

Revisor's Note

Section 10(b)(1), V.T.I.C. Article 3.75, states that a modified guaranteed contract is subject to the "requirements and limitations prescribed by the laws of this state." The revised law omits the reference to "requirements and limitations" for the reason stated in the revisor's note to Section

1152.056.

Revised Law

Sec. 1152.203. RULES. In addition to any rules adopted under Section 1152.002, the commissioner may adopt reasonable rules that apply only to a modified guaranteed contract, to appropriately regulate:

(1) a modified guaranteed contract under this chapter; and

(2) the separate account maintained in relation to a modified guaranteed contract. (V.T.I.C. Art. 3.75, Sec. 10(c).)

Source Law

(c) The State Board of Insurance may promulgate reasonable rules, which are separate from any rules adopted under Section 8 of this article and applicable to modified guaranteed contracts only, as are appropriate for the regulation of modified guaranteed contracts under this article and the separate accounts maintained with respect to the same.

Revised Law

Sec. 1152.204. NONFORFEITURE VALUES. (a) A modified guaranteed contract must contain nonforfeiture values that are based on a market-value adjustment formula if the contract is held for a period shorter than the period specified in the contract. The formula may or may not reflect the value of assets held in the separate account.

(b) A modified guaranteed contract must prominently state on its first page that the nonforfeiture values may increase or decrease based on the market-value formula specified in the contract. (V.T.I.C. Art. 3.75, Secs. 10(a) (part), (b) (part).)

Source Law

Sec. 10. (a) . . . They contain nonforfeiture values that are based upon a market-value adjustment formula if held for shorter periods. This formula may or may not reflect the value of assets held in the separate account.

(b) . . . [the following requirements shall apply to modified guaranteed contracts:]

. . .

(3) Any modified guaranteed contract shall contain, on its first page, a prominent statement that the nonforfeiture values may increase or decrease, based on the

market-value formula specified in the contract.

Revised Law

Sec. 1152.205. SEPARATE ACCOUNT STATEMENT. An insurance company that files a separate account statement under Section 1152.107 shall include in that statement a statement for each separate account that relates to a modified guaranteed contract. (V.T.I.C. Art. 3.75, Sec. 10(b) (part).)

Source Law

(b) . . . [the following requirements shall apply to modified guaranteed contracts:]

. . .

(2) Separate accounts, relating to modified guaranteed contracts, shall be included in the separate account annual statement filed by the insurance company pursuant to Section 6 of this article. . . .

CHAPTER 1153. CREDIT LIFE INSURANCE AND CREDIT  
ACCIDENT AND HEALTH INSURANCE  
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[Sections 1153.056-1153.100 reserved for expansion]

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[Sections 1153.105-1153.150 reserved for expansion]

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CHAPTER 1153. CREDIT LIFE INSURANCE AND CREDIT  
ACCIDENT AND HEALTH INSURANCE

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1153.001. SHORT TITLE. This chapter may be cited as  
the Act for the Regulation of Credit Life Insurance and Credit  
Accident and Health Insurance. (V.T.I.C. Art. 3.53, Sec. 2,  
Subsec. A(1).)

Source Law

Sec. 2. A. (1) This Act may be

cited as "The Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance."

Revisor's Note

Subsection A(1), Section 2, V.T.I.C. Article 3.53, provides that Article 3.53 may be cited as "The Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance." Because Article 3.53, revised as this chapter, has been enacted by the legislature and is law, the revised law omits "Model."

Revised Law

Sec. 1153.002. PURPOSE; LEGISLATIVE INTENT; CONSTRUCTION.

(a) The purpose of this chapter is to promote the public welfare by regulating credit life insurance and credit accident and health insurance.

(b) This chapter is not intended to prohibit or discourage reasonable competition.

(c) This chapter shall be liberally construed. (V.T.I.C. Art. 3.53, Sec. 1.)

Source Law

Art. 3.53

Sec. 1. The purpose of this Act is to promote the public welfare by regulating credit life insurance and credit accident and health insurance. Nothing in this Act is intended to prohibit or discourage reasonable competition. The provisions of this Act shall be liberally construed.

Revised Law

Sec. 1153.003. DEFINITIONS. In this chapter:

(1) "Credit accident and health insurance" means insurance to provide indemnity for payments that become due on a specific credit transaction of a debtor when the debtor is disabled, as defined in the insurance policy.

(2) "Credit life insurance" means insurance on the life of a debtor in connection with a specific credit transaction.

(3) "Credit transaction" includes the lending of money.

(4) "Creditor" means:

(A) a person who lends money or who sells or leases goods, services, property, rights, or privileges, for which the payment is arranged through a credit transaction;

(B) a successor to the right, title, or interest of a person described by Paragraph (A); or

(C) a person who is in any way associated with a person described by Paragraph (A) or (B), including a director, officer, employee, affiliate, associate, or subsidiary of the person described by Paragraph (A) or (B).

(5) "Debtor" means a person who borrows money or who purchases or leases goods, services, property, rights, or privileges, the payment for which is arranged through a credit transaction. (V.T.I.C. Art. 3.53, Sec. 2, Subsec. B (part).)

#### Source Law

B. For the purpose of this Act:

(1) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction;

(2) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy;

(3) "Creditor" means the lender of money or vendor or lessor of goods, services, or property, rights or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor, or lessor, and an affiliate, associate, or subsidiary of any of them or any director, officer or employee of any of them or any other person in anyway associated with any of them;

(4) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction; . . . .

#### Revisor's Note

(1) Subsection B(5), Section 2, V.T.I.C. Article 3.53, defines "indebtedness." The article generally uses the term to refer to the debt that is the foundation of a credit transaction. Throughout this chapter, the revised law substitutes for that term the more commonly

used term "debt." The omitted law reads:

(3) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction;

(2) Subsection B(6), Section 2, V.T.I.C. Article 3.53, defines "commissioner." The revised law omits the definition as unnecessary. Chapter 31 of this code defines "commissioner" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance. That definition applies to this chapter. The omitted law reads:

(6) "Commissioner" means The Commissioner of Insurance;

(3) Subsection B(7), Section 2, V.T.I.C. Article 3.53, defines "State Board of Insurance." The revised law omits the definition. Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the State Board of Insurance and transferred its functions to the commissioner of insurance and the Texas Department of Insurance. Chapter 31 of this code defines "department" for purposes of this code and the other insurance laws of this state to mean the Texas Department of Insurance. Throughout this chapter, references to the State Board of Insurance have been changed appropriately. The omitted law reads:

(7) "State Board of Insurance" means the three (3) member State Board of Insurance.

(4) V.T.I.C. Article 3.53 contains several references to the phrase "loan or other credit transaction." The definition of "credit transaction" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition. Throughout this chapter, references to that phrase have been changed as appropriate.

#### Revised Law

Sec. 1153.004. APPLICABILITY OF CHAPTER. (a) This chapter



applies to life insurance and accident and health insurance that is sold in connection with a credit transaction that is charged to or paid for by, in whole or part, the debtor, except insurance that is issued or sold:

(1) in connection with a credit transaction of more than 10 years' duration;

(2) in connection with a credit transaction that is:

(A) secured by a first mortgage or deed of trust;

and

(B) made to:

(i) finance the purchase of commercial real property or the construction of or improvement to a building, other than a single-family dwelling, on the real property if the purchase, construction, or improvement is secured by a lien on the real property; or

(ii) refinance a credit transaction made for a purpose described by Subparagraph (i); or

(3) as an isolated transaction on the part of the insurer that is not related to an agreement or a plan for insuring debtors of the creditor.

(b) This chapter applies to insurance described by Subsection (a) regardless of the nature, kind, or plan of the credit insurance coverage or premium payment system and regardless of whether the credit insurance is charged to or paid for by the debtor directly or indirectly. (V.T.I.C. Art. 3.53, Sec. 2, Subsec. A(2).)

#### Source Law

(2) All life insurance and all accident and health insurance sold in connection with loans or other credit transactions, the premium for which is charged to or paid for in whole or in part either directly or indirectly by the debtor, shall be subject to the provisions of this Act, regardless of the nature, type or plan of the credit insurance coverage or premium payment system, except:

(a) insurance issued or sold in connection with a loan or other credit transaction of more than 10 years' duration;

(b) insurance issued or sold in connection with a credit transaction that is:

(i) secured by a first mortgage or deed of trust; and

(ii) made to finance the purchase of commercial real property or the

construction of or improvement to a building other than a single family dwelling on the real property if the purchase, construction, or improvement is secured by a lien on the real property, or to refinance a credit transaction made for those purposes; or

(c) insurance issued or sold as an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

#### Revised Law

Sec. 1153.005. RULES. After notice and a hearing, the commissioner may adopt rules to implement this chapter.  
(V.T.I.C. Art. 3.53, Sec. 12 (part).)

#### Source Law

Sec. 12. The State Board of Insurance may, after notice and hearing, issue such rules and regulations as it deems appropriate for the supervision of this Act. . . .

#### Revisor's Note

Section 12, V.T.I.C. Article 3.53, refers to "rules and regulations." The reference to "regulations" is omitted from the revised law because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

#### Revised Law

Sec. 1153.006. FILING FEE. (a) The department shall set and collect a fee for a form or schedule filed under this chapter in an amount not to exceed \$200.

(b) Fees collected under this section shall be deposited in the Texas Department of Insurance operating account. (V.T.I.C. Art. 3.53, Sec. 7, Subsec. H.)

#### Source Law

H. The department shall charge a fee, in an amount to be determined by the department but not to exceed \$200, for a form or schedule filed under this article. Fees collected shall be deposited in the state treasury to the credit of the department operating fund.

Revisor's Note

Subsection H, Section 7, V.T.I.C. Article 3.53, states that fees "shall be deposited in the state treasury to the credit of the department operating fund." Under Chapter 4, Acts of the 72nd Legislature, 1st Called Session, 1991, the Texas Department of Insurance operating fund was converted to an account in the general revenue fund. The revised law has been drafted accordingly.

Revised Law

Sec. 1153.007. GAIN OR ADVANTAGE FROM INSURANCE NOT PROHIBITED CHARGE. (a) The premium or cost of credit life insurance or credit accident and health insurance authorized under this chapter is not considered to be interest, a charge, consideration, or an amount in excess of permitted charges in connection with the underlying credit transaction.

(b) Any benefit, return, or other gain or advantage to the creditor arising out of the sale or provision of the insurance under this chapter is not a violation of any law of this state. (V.T.I.C. Art. 3.53, Sec. 9 (part).)

Source Law

Sec. 9. . . . The premium or cost of such insurance allowed herein shall not be deemed interest, or charges, or consideration, or an amount in excess of permitted charges in connection with the loan or other credit transaction, and any benefit or return or other gain or advantage to the creditor arising out of the sale or provision of such insurance shall not be deemed a violation of any law, General or Special, of the State of Texas.

[Sections 1153.008-1153.050 reserved for expansion]

SUBCHAPTER B. FORMS

Revised Law

Sec. 1153.051. FILING OF FORM. (a) An insurer shall file with the commissioner the form of each policy, certificate of insurance, notice of proposed insurance, application for insurance, endorsement, and rider to which this chapter applies that is delivered or issued for delivery in this state.

(b) If a group policy of credit life insurance or credit accident and health insurance is delivered in another state, the insurer is required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this

state, as specified in Section 1153.052.

(c) The commissioner shall approve a certificate filed under Subsection (b) if it conforms with the requirements provided by Section 1153.052 and if the schedule of premium rates applicable to the insurance evidenced by that certificate or notice does not exceed the presumptive premium rate established by the commissioner. (V.T.I.C. Art. 3.53, Sec. 7, Subsecs. A (part), F (part).)

#### Source Law

Sec. 7. A. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and . . . shall be filed with the Commissioner.

F. If a group policy of credit life insurance or credit accident and health insurance

. . .

(ii) . . . is delivered in another State . . . after the effective date of this Act, the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this State as specified in Subsection B of Section 6 of this Act and such certificate shall be approved by the Commissioner if it conforms with the requirements specified in said Subsection and if the schedule of premium rates applicable to the insurance evidenced by such certificate or notice is not in excess of the presumptive premium rate established by the Board.

#### Revisor's Note

Subsection F, Section 7, V.T.I.C. Article 3.53, provides a special filing requirement for group policies delivered before the effective date of the act that added that section. That act was enacted by the 58th Legislature and took effect in 1963. The revised law omits as executed the part of the transitional provision relating to those policies. The omitted law reads:

F. . . .

(i) has been delivered in this State before the effective date of this Act, or

(ii) has been or . . . [delivered in another State] before or . . . [the effective date of this Act] . . . .

Revised Law

Sec. 1153.052. REQUIREMENTS RELATING TO INSURANCE POLICY OR CERTIFICATE. (a) A policy or certificate of credit life insurance or credit accident and health insurance must:

(1) specify:

(A) the name and home office address of the insurer;

(B) the name of each debtor;

(C) in the case of a certificate under a group policy, the identity, by name or otherwise, of each insured;

(D) the full amount of premium or the total identifiable insurance charge, if any, to the debtor, separately for credit life insurance and credit accident and health insurance; and

(E) each exception or limitation to or restriction on the coverage;

(2) describe the coverage, including the amount and term of the coverage; and

(3) state that the benefits are to be paid to the creditor to reduce or extinguish the unpaid amount of the debt and that any amount of benefits that exceeds the unpaid debt is to be paid to a beneficiary, other than the creditor, named by the debtor or to the debtor's estate.

(b) The requirements of this section are in addition to the other requirements of law. (V.T.I.C. Art. 3.53, Sec. 6, Subsec. B.)

Source Law

B. Each individual policy or group certificate of credit life insurance, and/or credit accident and health insurance shall, in addition to other requirements of law, set forth the name and home office address of the insurer, the name or names of the debtor and, in the case of a certificate under a group policy, the identity by name or otherwise of the person or persons insured, the full amount of premium or the total identifiable insurance charge, if any, to the debtor, separately for credit life insurance and credit accident and health insurance, a

description of the coverage including the amount and term thereof, and any exceptions, limitations and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

Revised Law

Sec. 1153.053. DISAPPROVAL OF FORM. (a) Not later than the 60th day after the date an insurer files a form under Section 1153.051, the commissioner shall disapprove the form if:

- (1) the benefits provided are not reasonable in relation to the premium charge; or
- (2) the form contains a provision that:
  - (A) is unjust, unfair, inequitable, misleading, or deceptive;
  - (B) encourages misrepresentation of the coverage; or
  - (C) is contrary to this code or a rule adopted under this code.

(b) The commissioner shall specify in the notice of disapproval of a form the reason for the disapproval and state that, if the insurer delivers to the commissioner a written request for a hearing on the disapproval of the form, the hearing will be granted not later than the 20th day after the date of the request. (V.T.I.C. Art. 3.53, Sec. 7, Subsecs. B, C (part).)

Source Law

B. The Commissioner shall within sixty (60) days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of the Insurance Code or of any rule or regulation promulgated hereunder.

C. . . . In such notice, the Commissioner shall specify the reason for his

disapproval and state that a hearing will be granted within twenty (20) days after request in writing by the insurer. . . .

Revisor's Note

Subsection B, Section 7, V.T.I.C. Article 3.53, refers to "any rule or regulation." The reference to "regulation" is omitted from the revised law for the reason stated in the revisor's note under Section 1153.005.

Revised Law

Sec. 1153.054. WITHDRAWAL OF APPROVAL OF FORM. The commissioner may hold a hearing on the withdrawal of the approval of a form not earlier than the 21st day after the date written notice of the hearing is given to the insurer who submitted the form. The notice of the hearing must state the reason for the proposed withdrawal of approval. At any time after the hearing, the commissioner may withdraw approval of the form for any ground provided by Section 1153.053(a). (V.T.I.C. Art. 3.53, Sec. 7, Subsec. D.)

Source Law

D. The Commissioner may, at any time after a hearing held not less than twenty (20) days after written notice to the insurer, withdraw his approval of any such form on any ground set forth in Subsection B above. The written notice of such hearing shall state the reason for the proposed withdrawal.

Revised Law

Sec. 1153.055. PROHIBITIONS RELATING TO ISSUANCE OR USE OF FORM. (a) A policy, certificate of insurance, notice of proposed insurance, application for insurance, endorsement, or rider to which this chapter applies may not be issued or used before the 61st day after the date the form is filed with the commissioner under Section 1153.051, unless the commissioner gives prior written approval of the issuance or use of the form.

(b) An insurer who is notified by the commissioner that a form is disapproved may not issue or use that form.

(c) After the effective date of the withdrawal of the approval of a form under Section 1153.054, the insurer may not issue or use that form. (V.T.I.C. Art. 3.53, Sec. 7, Subsecs. C (part), E.)

Source Law

C. If the Commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for such insurer to issue or use such form. . . . No such policy, certificate of insurance, notice of proposed insurance, nor any application, endorsement or rider, shall be issued or used until the expiration of sixty (60) days after it has been so filed, unless the Commissioner shall give his prior written approval thereto.

E. It shall not be lawful for the insurer to issue such forms or use them after the effective date of such withdrawal.

[Sections 1153.056-1153.100 reserved for expansion]

SUBCHAPTER C. RATES

Revised Law

Sec. 1153.101. FILING OF SCHEDULE OF RATES. An insurer shall file with the commissioner each schedule of premium rates relating to a document required to be filed under Section 1153.051. (V.T.I.C. Art. 3.53, Sec. 7, Subsec. A (part).)

Source Law

A. [All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this State and] the schedules of premium rates pertaining thereto shall be filed with the Commissioner.

Revised Law

Sec. 1153.102. REVISION OF SCHEDULE OF RATES. (a) An insurer may revise its schedules of premium rates for various classes of business.

(b) The insurer shall file the revised schedules and classes of business with the commissioner.

(c) An insurer may not issue a credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds the rate determined by using the appropriate schedule for that class of business that the insurer has on file with the commissioner. (V.T.I.C. Art. 3.53, Sec. 8, Subsec. A(1).)



Source Law

Sec. 8. A. (1) Any insurer may revise its schedules of premium rates for various classes of business from time to time, and shall file such revised schedules and classes of business with the Commissioner. No insurer shall issue any credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds that determined by the schedules and classes of business of such insurer as then on file with the Commissioner.

Revisor's Note

Subsection A(1), Section 8, V.T.I.C. Article 3.53, provides that an insurer may revise its schedules of premium rates "from time to time." The revised law omits the quoted language as unnecessary because the power to take an action includes the power to act "from time to time."

Revised Law

Sec. 1153.103. PRESUMPTIVE PREMIUM RATE. (a) After notice and a hearing, the commissioner may promulgate a presumptive premium rate for various classes of business and terms of coverage.

(b) The commissioner shall hold a hearing required under Subsection (a) in accordance with the contested case provisions of Chapter 2001, Government Code.

(c) In determining the presumptive premium rate, the commissioner shall consider any relevant data, including reasonable acquisition costs, loss ratios, administrative expenses, reserves, loss settlement expenses, the type or class of business, the duration of various credit transactions, and reasonable and adequate profits to the insurers.

(d) In determining the presumptive premium rate, the commissioner may not set or limit the amount of compensation actually paid by a company to an agent but may request from an insurer or agent any relevant data relating to the presumptive premium rate, including information relating to compensation paid for the sale of credit insurance, expenses, losses, and profits. An insurer or agent shall provide the requested information to the commissioner in a timely manner.

(e) The commissioner may not promulgate a presumptive premium rate that is unjust, unreasonable, inadequate, confiscatory, or excessive to the insureds, the insurers, or the agents.

(f) It is a rebuttable presumption that the presumptive premium rate is just, reasonable, adequate, and not excessive. (V.T.I.C. Art. 3.53, Sec. 8, Subsecs. A(2), (3).)

Source Law

(2) The State Board of Insurance may, after notice and hearing, adopt and promulgate a presumptive premium rate for various classes of business and terms of coverage which shall be presumed, subject to a rebuttal of such presumption, to be just, reasonable, adequate, and not excessive. Any hearing conducted pursuant to this section shall be held in accordance with the contested case provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(3) In determining the presumptive premium rate, the board shall consider reasonable acquisition costs, loss ratios, and administrative expenses, reserves, loss settlement expenses, the type or class of business, the duration of various credit transactions, reasonable and adequate profits to the insurers, and other relevant data. The board may not set a presumptive premium rate that is unjust, unreasonable, inadequate, confiscatory, or excessive to the insurers, the insureds, or agents. The board may not fix or limit the amount of compensation actually paid by a company to an agent. The board may request information from any insurer or agent with respect to compensation paid for the sale of credit insurance, expenses, losses, profits, and any other relevant data relating to the presumptive premium rate and it is the duty of each insurer or agent to provide such information to the board in a timely manner.

Revisor's Note

(1) Subsection A(2), Section 8, V.T.I.C. Article 3.53, authorizes the State Board of Insurance (now the Texas Department of Insurance) to "adopt and promulgate a presumptive premium rate." In the revision of insurance laws, rules are "adopted" (See

Sections 36.001 and 37.001, Insurance Code) and rates are "promulgated" (See Sections 40.051 and 40.052, Insurance Code). Thus, the revised law substitutes "promulgate" for "adopt and promulgate."

(2) Subsection A(2), Section 8, V.T.I.C. Article 3.53, refers to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The relevant portion of that article was codified in 1993 as Chapter 2001, Government Code, and the revised law is drafted accordingly.

#### Revised Law

Sec. 1153.104. APPEAL OF PRESUMPTIVE RATE. Any person who is aggrieved by any action of the commissioner taken in the setting of a presumptive rate may appeal the action, in accordance with Subchapter D, Chapter 36, not later than the 30th day after the date the commissioner took the action. (V.T.I.C. Art. 3.53, Sec. 8, Subsec. A(4).)

#### Source Law

(4) Any person aggrieved by the action of the board in the setting of a presumptive rate or any other action taken with regard to the setting of such presumptive rate may within 30 days from the date the board took the action complained of appeal in accordance with Article 1.04 of this code.

#### Revisor's Note

Subsection A(4), Section 8, V.T.I.C. Article 3.53, refers to Article 1.04, Insurance Code. That article was codified in 1999 as Subchapter D, Chapter 36, Insurance Code. The revised law is drafted accordingly.

[Sections 1153.105-1153.150 reserved for expansion]

#### SUBCHAPTER D. CREDIT INSURANCE REQUIREMENTS

#### Revised Law

Sec. 1153.151. FORMS OF CREDIT LIFE INSURANCE. Credit life insurance may be issued only as:

(1) an individual policy of life insurance issued to a debtor on a term plan; or

(2) a group policy of life insurance issued to a creditor on a term plan providing insurance on the lives of debtors. (V.T.I.C. Art. 3.53, Sec. 3 (part).)

Source Law

Sec. 3. Credit life insurance  
and . . . shall be issued only in the  
following forms:

A. Individual policies of life  
insurance issued to debtors on the term plan;

. . .

C. Group policies of life  
insurance issued to creditors providing  
insurance upon the lives of debtors on the  
term plan; . . . .

Revised Law

Sec. 1153.152. FORMS OF CREDIT ACCIDENT AND HEALTH  
INSURANCE. Credit accident and health insurance may be issued  
only as:

(1) an individual policy of accident and health  
insurance issued to a debtor on a term plan;

(2) a disability benefit provision in an individual  
policy of credit life insurance;

(3) a group policy of accident and health insurance  
issued to a creditor on a term plan insuring debtors; or

(4) a disability benefit provision in a group policy  
of credit life insurance. (V.T.I.C. Art. 3.53, Sec. 3 (part).)

Source Law

Sec. 3. . . . credit accident and  
health insurance shall be issued only in the  
following forms:

. . .

B. Individual policies of accident  
and health insurance issued to debtors on a  
term plan or disability benefit provisions in  
individual policies of credit life insurance;

. . .

D. Group policies of accident and  
health insurance issued to creditors on a  
term plan insuring debtors or disability  
benefit provisions in group credit life  
insurance policies to provide such coverage.

Revised Law

Sec. 1153.153. EVIDENCE OF INSURANCE. Credit life  
insurance or credit accident and health insurance shall be  
evidenced by an individual policy or group certificate of  
insurance. (V.T.I.C. Art. 3.53, Sec. 6, Subsec. A (part).)

Source Law

Sec. 6. A. All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, . . . .

Revised Law

Sec. 1153.154. REQUIREMENTS FOR DELIVERY OR ISSUANCE OF CREDIT INSURANCE POLICY. A policy of credit life insurance or credit accident and health insurance that is delivered or issued for delivery in this state may be delivered or issued for delivery only by an insurer authorized to engage in the business of insurance in this state and may be issued only through a holder of a license issued by the commissioner. (V.T.I.C. Art. 3.53, Sec. 9 (part).)

Source Law

Sec. 9. All policies of credit life insurance and credit accident and health insurance shall be delivered or issued for delivery in this State only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses issued by the Commissioner. . . .

Revised Law

Sec. 1153.155. LIMITS ON AMOUNT OF CREDIT LIFE INSURANCE.

(a) The initial amount of credit life insurance on a debtor may not exceed the total amount of debt repayable under the contract that evidences the credit transaction.

(b) If the debt is repayable in substantially equal installments, the amount of insurance may not at any time exceed the greater of the scheduled or actual unpaid amount of the debt under the contract. (V.T.I.C. Art. 3.53, Sec. 4, Subsec. A.)

Source Law

Sec. 4. A. (1) The initial amount of credit life insurance on any debtor shall not exceed the total amount repayable under the contract of indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater.

Revised Law

Sec. 1153.156. LIMITS ON AMOUNT OF CREDIT ACCIDENT AND HEALTH INSURANCE. (a) The total amount of indemnity payable by credit accident and health insurance may not exceed the total amount of debt repayable under the contract that evidences the credit transaction.

(b) The amount of a periodic indemnity payment may not exceed the scheduled periodic installment payment on the debt. (V.T.I.C. Art. 3.53, Sec. 4, Subsec. B.)

Source Law

B. The total amount of indemnity payable by credit accident and health insurance in the event of disability as defined in the policy on any debtor, shall not exceed the total amount repayable under the contract of indebtedness and the amount of each periodic indemnity payment shall not exceed the scheduled periodic installment payment on the indebtedness.

Revised Law

Sec. 1153.157. BEGINNING OF TERM OF CREDIT INSURANCE COVERAGE. (a) Except as otherwise provided by this section, the term of credit life insurance or credit accident and health insurance begins, subject to acceptance by the insurer, on the date that the debtor becomes obligated to the creditor.

(b) With respect to an obligation that exists when a group policy takes effect, coverage begins on the later of the effective date of the policy or the date of enrollment for coverage under the policy.

(c) If evidence of insurability is required and is provided after the 30th day after the date the debtor becomes obligated to the creditor, the term of the insurance may begin on the date the insurance company determines that the evidence is satisfactory. (V.T.I.C. Art. 3.53, Sec. 5 (part).)

Source Law

Sec. 5. The term of any credit life insurance or credit accident and health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy or the date of enrollment

for coverage under the group policy,  
whichever is later. Where evidence of  
insurability is required and such evidence is  
furnished more than thirty (30) days after  
the date when the debtor becomes obligated to  
the creditor, the term of the insurance may  
commence on the date on which the insurance  
company determines the evidence to be  
satisfactory, and . . . .

Revised Law

Sec. 1153.158. DELIVERY OF EVIDENCE OF INSURANCE TO DEBTOR.

(a) At the time a debt for which credit insurance is sold is incurred:

(1) the individual policy or group certificate of insurance, as appropriate, shall be delivered to the debtor; or

(2) a copy of the application for the policy or certificate of insurance or a notice of proposed insurance that satisfies Section 1153.159 shall be delivered to the debtor.

(b) If delivery to the debtor is made under Subsection (a)(2), the insurer shall deliver the individual policy or group certificate of insurance to the debtor on acceptance of the insurance by the insurer and not later than the 45th day after the date the debt is incurred.

(c) If the insurer named in the application or notice under Subsection (a)(2) does not accept the risk, the debtor shall receive a policy or certificate of insurance that specifies the name and home office address of the substituted insurer and the amount of the premium to be charged for the insurance. (V.T.I.C. Art. 3.53, Sec. 6, Subsecs. A (part), C, D (part), E (part).)

Source Law

A. . . . which individual policy or group certificate of insurance shall be delivered to the debtor.

C. Said individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.

D. If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, . . . shall be delivered to the debtor at the time such indebtedness is incurred. . . .

Upon acceptance of the insurance by the insurer and within forty-five (45) days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. . . .

E. If the named insurer does not accept the risk, then and in such event the debtor shall receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and . . . .

#### Revised Law

Sec. 1153.159. REQUIREMENTS RELATING TO APPLICATION FOR INSURANCE OR NOTICE OF PROPOSED INSURANCE. A copy of an application for insurance or a notice of proposed insurance delivered under Section 1153.158 must:

- (1) be signed by the debtor;
  - (2) specify:
    - (A) the name and home office address of the insurer;
    - (B) the name of each debtor;
    - (C) the full amount of the premium or the total identifiable insurance charge, if any, to be paid by the debtor, separately for credit life insurance and credit accident and health insurance; and
    - (D) the amount, term, and a brief description of the coverage to be provided;
  - (3) refer exclusively to insurance coverage;
  - (4) be separate from the instrument or agreement for the loan or sale or other credit statement of account, unless the information required by this section is prominently set forth in that instrument, agreement, or statement; and
  - (5) provide that on acceptance by the insurer, the insurance becomes effective as provided by Section 1153.157.
- (V.T.I.C. Art. 3.53, Sec. 6, Subsec. D (part).)

#### Source Law

D. . . . a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the full amount of premium or the total identifiable insurance charge, if any, to the



debtor, separately for credit life insurance and credit accident and health insurance, the amount, term and a brief description of the coverage provided, . . . . The copy of the application for, or notice of proposed insurance, shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this Subsection is prominently set forth therein. . . . Said application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in Section 5.

Revised Law

Sec. 1153.160. TERMINATION OF CREDIT INSURANCE. (a) The term of credit life insurance or credit accident and health insurance must end not later than the 15th day after the scheduled maturity date of the debt unless the coverage after that date is without additional cost to the debtor.

(b) If the debt is discharged by renewing or refinancing the debt before the scheduled maturity date, the insurance in force must terminate before new insurance may be issued in connection with the renewed or refinanced debt. (V.T.I.C. Art. 3.53, Sec. 5 (part).)

Source Law

Sec. 5. . . . The term of such insurance shall not extend more than fifteen (15) days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. . . .

Revised Law

Sec. 1153.161. INSURANCE MAY BE PROVIDED BY DEBTOR. If credit life insurance or credit accident and health insurance is required as additional security for a debt, the debtor, on request to the creditor, may provide the required amount of insurance through:

(1) an existing insurance policy owned or controlled by the debtor; or

(2) an insurance policy obtained from an insurer authorized to engage in the business of insurance in this state. (V.T.I.C. Art. 3.53, Sec. 11.)

Source Law

Sec. 11. When credit life insurance or credit accident and health insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this State.

[Sections 1153.162-1153.200 reserved for expansion]

SUBCHAPTER E. CHARGES, REFUNDS, ADJUSTMENTS, AND CLAIMS

Revised Law

Sec. 1153.201. MAXIMUM AMOUNT OF INSURANCE CHARGE TO DEBTOR. A creditor may not charge a debtor for credit life or credit accident and health insurance issued to the debtor an amount that exceeds the amount of the premium that the insurer charges the creditor for that insurance, as computed at the time the charge to the debtor is determined. (V.T.I.C. Art. 3.53, Sec. 8, Subsec. D.)

Source Law

D. The amount charged to a debtor by the creditor for any credit life or credit accident and health insurance issued to the debtor shall not exceed the actual premium charged the creditor by the insurer for such insurance, as computed at the time the charge to the debtor is determined.

Revised Law

Sec. 1153.202. REFUND OF INSURANCE CHARGE ON TERMINATION OF DEBT OR INSURANCE; FILING OF FORMULA. (a) Each individual policy or group policy and group certificate shall provide that if the underlying debt or the insurance terminates before the scheduled maturity date of the debt, including the termination of a debt by renewing or refinancing the debt, the refund of any amount paid by or charged to the debtor for insurance shall be

paid or credited promptly to the person entitled to the refund.

(b) A refund is not required if the amount of the refund is less than \$3.

(c) The formula to be used in computing the refund of the amount paid by or charged to the debtor for insurance if the underlying debt or the insurance terminates before the scheduled maturity date of the debt must be filed with and approved by the commissioner. (V.T.I.C. Art. 3.53, Secs. 5 (part), 8, Subsec. B, as amended Acts 67th Leg., R.S., Chs. 493, 849.)

Source Law

Sec. 5. . . . [If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness.] In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in Section 8.

[Sec. 8]

B. [as amended Acts 67th Leg., R.S., Ch. 493] Each individual policy, or group policy and group certificate shall provide that in the event of termination of the indebtedness or the insurance prior to the schedule [sic] maturity date of the indebtedness, any refund of an amount paid by or charged to the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, no refund need be made if the amount thereof is less than Five Dollars (\$5). The formula to be used in computing such refund shall be filed with and approved by the Commissioner.

B. [as amended Acts 67th Leg., R.S., Ch. 849] Each individual policy, or group policy and group certificate shall provide that in the event of termination of the indebtedness or the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by or charged to the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, no refund need be made if the amount thereof is less than Three Dollars (\$3). The formula to be used in

computing such refund shall be filed with and approved by the Commissioner.

Revisor's Note

The text of Subsection B, Section 8, V.T.I.C. Article 3.53, was amended by Chapters 493 and 849, Acts of the 67th Legislature, Regular Session, 1981. Those amendments contain an irreconcilable conflict relating to the maximum amount for which a refund is not required under that section. The later-enacted amendment sets the ceiling at \$3, and that amount is used by the commissioner in the rule that corresponds to this section. (See 28 TAC Section 3.5905.) The revised law is drafted accordingly.

Revised Law

Sec. 1153.203. CERTAIN REFUNDS OR ADJUSTMENTS REQUIRED.

(a) If the beginning of the term of insurance is delayed under Section 1153.157(c), the charge to the debtor for insurance shall be adjusted or the appropriate amount shall be refunded to the debtor.

(b) If insurance is substituted under Section 1153.158(c) and the amount of premium for the substituted insurance is less than the amount specified in the application or notice of proposed insurance, the appropriate amount shall be refunded to the debtor.

(c) If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall:

- (1) immediately give written notice to the debtor; and
- (2) promptly make an appropriate credit to the debtor's account. (V.T.I.C. Art. 3.53, Sec. 5 (part); Sec. 6, Subsec. E (part); Sec. 8, Subsec. C.)

Source Law

Sec. 5. . . . [Where evidence of insurability is required and such evidence is furnished more than thirty (30) days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurance company determines the evidence to be satisfactory, and] in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. . . .

[Sec. 6]

E. [If the named insurer does not accept the risk, then and in such event the debtor shall receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and] if the amount of premium is less than that set forth in the notice of proposed insurance an appropriate refund shall be made.

[Sec. 8]

C. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

#### Revised Law

Sec. 1153.204. CLAIM UNDER POLICY. (a) A claim for recovery under a policy to which this chapter applies shall be reported promptly to the insurer or the insurer's designated claim representative.

(b) An insurer shall maintain adequate claim files.

(c) A claim shall be settled as soon as possible and in accordance with the insurance contract.

(d) A claim shall be paid by a draft drawn on the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due under the policy or on direction of the claimant to the person specified.

(e) A plan or arrangement may not be used to authorize an individual, firm, or corporation, other than the insurer or the insurer's designated claim representative, to settle or adjust a claim. The creditor may not be designated as claim representative for the insurer in settling or adjusting a claim. Notwithstanding this subsection, a group policyholder, under an arrangement with the group insurer, may draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer. (V.T.I.C. Art. 3.53, Sec. 10.)

#### Source Law

Sec. 10. A. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files.

All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

B. All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

C. No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in settling or adjusting claims; provided, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer.

[Sections 1153.205-1153.700 reserved for expansion]

#### SUBCHAPTER O. ENFORCEMENT OF CHAPTER; PENALTY

##### Revised Law

Sec. 1153.701. COMPLIANCE ORDER. (a) If, after written notice to an insurer or other person who holds a license or other authorization issued by the commissioner and a hearing, the commissioner determines that a violation of this chapter or a rule adopted under this chapter has occurred, the commissioner shall issue the details of that determination and an order for compliance by a specified date.

(b) An order issued under this section is binding on the insurer or other person to whom it is issued on the date specified in the order unless:

(1) the order is withdrawn by the commissioner before that date; or

(2) the order is appealed under Subchapter D, Chapter 36. (V.T.I.C. Art. 3.53, Sec. 12 (part).)

##### Source Law

Sec. 12. . . . Whenever the Commissioner finds that there has been a violation of this Act or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person

authorized or licensed by the Commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the Commissioner on the date specified unless sooner withdrawn by the Commissioner or a review thereof and appeal therefrom has been taken to the State Board of Insurance or the Courts under Article 1.04, Insurance Code of Texas. . . .

Revisor's Note

(1) Section 12, V.T.I.C. Article 3.53, refers to "any rules or regulations." The reference to "regulations" is omitted from the revised law for the reason stated in the revisor's note under Section 1153.005.

(2) Section 12, V.T.I.C. Article 3.53, refers to Article 1.04, Insurance Code. That article was codified in 1999 as Subchapter D, Chapter 36, Insurance Code. The revised law is drafted accordingly.

(3) Section 12, V.T.I.C. Article 3.53, provides a transition for the application of certain provisions of that article. The revised law omits that provision as executed. The omitted law reads:

Sec. 12. . . . The provisions of Sections 5, 6, 7 and 8 of this Act shall not be operative until ninety (90) days after the effective date of this Act, and the Commissioner in his discretion may extend by not more than an additional ninety (90) days the initial period within which the provisions of said Sections shall not be operative.

Revised Law

Sec. 1153.702. PENALTY. (a) An individual, firm, or corporation who violates a final order issued under this chapter is liable to the state in a civil action for a penalty of not more than:

(1) \$250; or  
(2) \$1,000, if the court finds the violation to be wilful.

(b) The penalty provided by this section is in addition to

any other penalty provided by law. (V.T.I.C. Art. 3.53, Sec. 14 (part).)

Source Law

Sec. 14. In addition to any other penalty provided by law, any person, firm or corporation which violates an order of the Commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of Texas a sum not to exceed Two Hundred and Fifty Dollars (\$250) which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed One Thousand Dollars (\$1,000). . . .

Revisor's Note

Section 14, V.T.I.C. Article 3.53, provides a civil penalty for violating a final order "while such order is in effect." The revised law omits the quoted language as unnecessary because a person cannot violate an order that is not in effect.

Revised Law

Sec. 1153.703. REVOCATION OR SUSPENSION OF AUTHORITY ON VIOLATION OF ORDER. After notice and a hearing, the commissioner may revoke or suspend the license or certificate of authority of an individual, firm, or corporation that violates an order issued under this chapter. (V.T.I.C. Art. 3.53, Sec. 14 (part).)

Source Law

Sec. 14. . . . The Commissioner, in his discretion, may revoke or suspend the license or certificate of authority of the person, firm or corporation guilty of such violation. Such order for suspension or revocation shall be upon notice and hearing, and . . . .

Revisor's Note

Section 14, V.T.I.C. Article 3.53, refers to judicial review as provided by Section 13 of that article. Section 13 is omitted from the revised law for the reason stated in the revisor's note at the end of this chapter. Accordingly, the revised law



omits that part of Section 14 that contains the reference to omitted Section 13. The omitted law reads:

Sec. 14. . . . shall be subject to judicial review as provided in Section 13 of this Act.

Revisor's Note  
(End of Chapter)

Subsection G, Section 7, and Section 13, V.T.I.C. Article 3.53, provide authority for the judicial review of an order or final determination of the commissioner. The revised law omits those provisions because they are redundant of the authority provided under Subchapter D, Chapter 36, Insurance Code, which was formerly V.T.I.C. Article 1.04. The omitted law reads:  
[Sec. 7]

G. Any order or final determination of the Commissioner under the provisions of this Section shall be subject to the appeal and review provisions of Article 1.04, Insurance Code of Texas.

Sec. 13. Any party to any proceeding affected by an order of the Commissioner or the State Board of Insurance shall be entitled to judicial review by following the procedure set forth in Article 1.04, Insurance Code of Texas.

TITLE 8. HEALTH INSURANCE AND OTHER HEALTH COVERAGES  
[Subtitles A-G reserved]

SUBTITLE H. HEALTH BENEFITS AND OTHER COVERAGES FOR  
GOVERNMENTAL EMPLOYEES

CHAPTER 1551. TEXAS EMPLOYEES GROUP BENEFITS ACT

CHAPTER 1552. GROUP LONG-TERM CARE INSURANCE FOR STATE  
EMPLOYEES

[Chapters 1553-1574 reserved for expansion]